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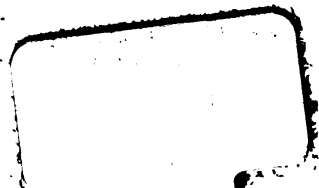
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Jan 1891

PROCEEDINGS
OF THE
New York State Bar Association.

NINETEENTH ANNUAL MEETING.



HELD AT THE CITY OF ALBANY,

January 22 and 23, 1896.

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LAWS OF NEW YORK—1877.

CHAPTER 210.

“AN ACT to incorporate the New York State Bar Association.”

PASSED May 2, 1877.

The People of the State of New York, represented in Senate and Assembly do enact as follows:

SECTION 1. The members of the voluntary association, which was formed in the city of Albany, November twenty-first, eighteen hundred and seventy-six, under the name of the New York State Bar Association, of which association John K. Porter, of the first judicial district, is president, and Charles W. Sanford, of the first judicial district; John J. Armstrong, of the second judicial district; Samuel Hand, of the third judicial district; Platt Potter, of the fourth judicial district; William C. Ruger, of the fifth judicial district; Horatio Ballard, of the sixth judicial district; James L. Angle, of the seventh judicial district, and Myron H. Peck, of the eighth judicial district, are vice-presidents, and of which the judges of the United States Courts, residing in this State, the judges of the Court of Appeals, and justices of the Supreme Court of this State are honorary members, and all persons who shall hereafter be associated with them are hereby created a body corporate, under the name of the “New York State Bar Association.” And the said association is formed to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, and to cherish the spirit of brotherhood among the members thereof.

SEC. 2. Said corporation shall have power to acquire by lease or purchase, suitable buildings, library and furniture for the use of the corporation; to borrow money for such purposes and issue bonds therefor, and to secure the same by mortgage, and generally to acquire and take by purchase, gift, devise, bequest, subject to the provisions of law relating to devises and bequests by last will and testament or otherwise, and to hold, transfer and convey all or any such real and personal property as may be necessary for attaining the objects, and carrying into effect the purposes of such corporation.

SEC. 3. The constitution, by-laws, rules and regulations originally adopted by said voluntary association shall be the constitution, by-laws,

rules and regulations of the corporation hereby created, which shall have power from time to time to alter, modify and change the same; and the members of the executive committee of said association shall be the first trustees of the corporation hereby created, and continue to be such trustees until others are elected in their places as prescribed by said constitution and by-laws, and the several officers and committees of said association shall be the officers and committees of the corporation hereby created with the powers and duties prescribed by said constitution and by-laws, rules and regulations, until their successors shall be similarly duly elected and installed.

SEC. 4. All property, rights and interests of the said association now held by any or either of the officers thereof, or by any person or persons for its use and benefit shall, by virtue of this act, vest in and become the property of the corporation hereby created, subject to the payment of the debts of said association, if any; all interest of any member of said association, and of the corporation hereby created, in such property, shall terminate and vest in the corporation upon his ceasing to be a member thereof.

SEC. 5. This corporation shall possess the powers and be subject to the liabilities prescribed by the third title of the eighteenth chapter of the first part of the Revised Statutes. This corporation shall deposit a copy of its charter, constitution and by-laws, and of each of its annual reports, in the State Library at Albany, and each of the libraries provided for the use of the justices of the Supreme Court in the several counties of the State. It shall be the duty of every local bar association to deposit with the New York State Bar Association, a copy of its act or certificate of incorporation, or its articles of association, and its constitution and by-laws and its annual report.

SEC. 6. This act shall take effect immediately.

CONSTITUTION.

I.— NAME.

This Association shall be called "The New York State Bar Association."

II.— OBJECT.

The Association is formed to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, and to cherish a spirit of brotherhood among the members thereof.

III.— MEMBERS.

The Delegates and Alternates selected to attend the first meeting for the organization of the Association (November 21, 1876) are hereby declared to be members thereof, provided they shall (on or before the 1st day of May, 1877) pay the admission fee and subscribe to this Constitution, or otherwise in writing notify the Secretary of their acceptance of membership.

Any member of the legal profession in good standing, residing or practicing in the State of New York, who shall have been at the Bar of this State at least three years, may become a member by vote of the Association on open nomination after a report of the Committee on Admissions, or of the Executive Committee upon recommendation of the Committee on Admissions; and on subscribing to this Constitution (or otherwise in writing notify the Secretary of his acceptance of membership), and, within the period limited by the By-laws, paying the admission fee and annual dues of the current year. The Judges of the United States Courts residing in this State, the Judges of the Court of Appeals, and the several Justices of the Supreme Court of this State shall, during their respective terms of office, be honorary members of this Association. Other honorary members may be elected by the Association.

Pursuant to Art. III, the Association, at the Annual Meeting, September, 1882 (Reports, vol. VI, p. 138), unanimously.

Resolved, That this Association admits among the honorary members such resident members of the Bar of the State of New York as may at any time hold any of the following-named offices, to wit: President of the United States, Vice-President of the United States, Members of the President's Cabinet, United States Senators from this State, Governor of this State, Attorney-General of this State, Envoy or Minister of the

United States to any foreign country; Member appointed on the part of the United States, of any international tribunal; and that the Secretary is directed to enroll them accordingly.

IV.—OFFICERS.

¶ The officers of the Association shall be a President, eight Vice-Presidents, one to be chosen from each judicial district, an Executive Committee, a Committee on Admissions, a Committee on Grievances, a Committee on Law Reform, a Committee on Prizes, a Committee on Legal Biography, a Recording Secretary, a Corresponding Secretary and a Treasurer, all of whom shall (for the period until the 1st day of January, 1878) be elected at the meeting at which this Constitution is adopted. And thereafter they shall be elected in the manner hereinafter prescribed.

V.—PRESIDENT.

The President, or (in his absence) one of the Vice-Presidents, or (in the absence of all of them) one of the members shall preside at all meetings of the Association.

The President shall be ex officio a member of the Executive Committee.

VI.—EXECUTIVE COMMITTEE.

The Executive Committee shall consist of twenty-four members, of whom three shall reside in, and be selected from each judicial district, and shall compose a District Executive Committee thereof.

This Committee shall manage the affairs of the Association, subject to the provisions of the Constitution and By-laws, and shall be vested with the title to all its property, as Trustees thereof, until the Association shall be incorporated, and when incorporated shall have power to accept the act of incorporation for and on behalf of the Association and all its members; and the Executive Committee shall make By-laws for the Association, subject to amendment by the Association.

At meetings of this Committee, the member or members in attendance from each judicial district shall be entitled to three votes to be cast by him or them, separately or together, as he or they may determine. Each District Committee, under direction of the General Committee, may exercise such of its powers, in or for the district, as from time to time shall be authorized by this General Committee, and such other powers as the Constitution and By-laws shall vest in them.

VII.—COMMITTEE ON ADMISSIONS.

The Committee on Admissions shall consist of thirty-two members, of whom four shall reside in and be selected from each judicial district, and compose a District Committee on Admissions thereof, and each of whom shall have practiced law in this State at least ten years.

The proceedings of this committee shall be deemed confidential and shall be kept secret, except so far as written or printed reports of the same shall be necessarily and officially made to the Association.

VIII.—COMMITTEE ON GRIEVANCES.

The Committee on Grievances shall consist of twenty-four members, not more than three of whom shall reside in the same judicial district.

This committee may receive and hear all complaints preferred by any member against any other member for misconduct in his relations to the Association, or in his profession, provided the same be in writing, plainly and specifically stating the matter complained of, and subscribed by the complainant.

This Committee may also, at its discretion, hear any specific complaint which may be made to it by any member in writing, affecting the interests of the legal profession, the practice of law, or the administration of justice, and may report thereon to the Association, with such recommendations as it may deem advisable.

All complaints so made shall be considered and disposed of by this committee in the manner provided in the By-laws.

The proceedings of this Committee shall be deemed confidential and kept secret, except so far as written or printed reports of the same shall be necessarily and officially made to the Association.

IX.—COMMITTEE ON LAW REFORM.

The Committee on Law Reform shall consist of twenty-four members, no four of whom shall reside in the same judicial district.

It shall be the duty of this Committee to consider and report to the Association such amendments of the law as in its opinion should be adopted, also to scrutinize proposed changes of the law, and when necessary report upon the same, also to observe the practical working of the judicial system of the State, and recommend by written or printed report, from time to time, any changes therein which observation or experience may suggest

X.—COMMITTEE ON PRIZES.

The Committee on Prizes shall consist of so many members as the Association shall appoint from year to year.

It shall be its duty to make rules for contests for such prizes as may be instituted by, or under the sanction of the Association, and to examine and pass upon the merits of every original production offered in accordance therewith.

XI.—COMMITTEE ON LEGAL BIOGRAPHY.

The Committee on Legal Biography shall consist of so many members as the Association shall appoint from year to year.

It shall be its duty to provide for the preservation among the archives of the Association of suitable written or printed memorials of the lives and characters of distinguished deceased members of the Bar of the State.

XII.—STANDING COMMITTEES.

Every Standing Committee shall, at each stated annual meeting report in writing a summary of its proceedings since its last annual report (except such matters as the Constitution or By-laws require to be kept secret) together with any suggestions deemed suitable and appertaining to its powers, duties or business.

A general summary of all such annual reports and of the proceedings of the Annual Meetings shall be prepared and printed by and under the direction of the Executive Committee, together with the Constitution and By-laws (as then existing), names and residences of Officers, Standing Committees and members of the Association, as soon as practicable after each Annual Meeting.

XIII.—RECORDING SECRETARY.

The Recording Secretary shall keep a record of the proceedings of all meetings of the Association, and discharge such other duties as shall be required of him by the Association.

XIV.—CORRESPONDING SECRETARY.

The Corresponding Secretary shall (with the concurrence of the President) conduct the correspondence of the Association.

XV.—TREASURER.

The Treasurer shall collect and (by order of the Executive Committee) disburse the moneys of the Association, and discharge such other duties as shall be required of him by the Association.

The Treasurer of this Association shall give security in such sum and in such form for the safe-keeping and accounting for moneys of the Association coming into his hands, as shall be required by the Executive Committee.

XVI.—OTHER COMMITTEES.

The Association may provide in its By-laws for other Standing Committees, and no matter shall be referred to a special committee which is relevant to the function of any Standing Committee.

XVII.—LIABILITIES.

No officer or committee, or other person, shall have power to make the Association liable for any debt amounting to more than one-half of the excess of money in the Treasurer's hand, beyond that required to meet prior liabilities, nor to make any contract binding personally any member of the Association.

XVIII.—MEETINGS.

There shall be an Annual Meeting of the Association held at the city of Albany on the third Tuesday in January, in each year commencing with January, 1884, and such adjourned meetings as the Association by

a vote of three-fourths of all present, may determine, and at any such adjourned meetings any business of the Association may be transacted except the election of officers.

Special meetings may be called at any time by the President or Executive Committee of their own motion; and shall be called by the Secretary upon the request of fifty members, in writing specifying the purpose thereof. At such Special Meeting no business shall be transacted except such as shall be specified in the notice thereof. At every meeting of the Association the presence of twenty-five members shall constitute a quorum. The Executive Committee and the Committee on Law Reform shall meet in joint session on the first Friday in December, or at such other time as the chairmen of said committees may order, but before such Annual Meeting, and shall prescribe such subjects for consideration at the Annual Meeting as said committee shall deem advisable. Due notice of the time and place of the Annual Meeting shall be given to each member of the Association on or before January first preceding such meeting, which notice shall specify the matters to be brought before the Annual Meeting as ordered by said committees. The actual expenses of said Executive Committee and said Committee of Law Reform, when certified by the chairman of said committees respectively, shall be paid by the Association.

Nothing herein contained shall prevent the consideration at the Annual Meeting of any other business that may be regularly brought before it.

XIX. — FEES.

The annual dues of members shall be five dollars, and shall be payable yearly on or before the first of May in each year.

Annual dues, at the option of any member, may be commuted by the payment of fifty dollars at one time; and thereafter no further dues shall be payable by any such member.

XX. — EXPULSION.

Any member may be suspended or expelled for misconduct in his relations to the Association, or in his profession, after conviction thereof by such method of procedure, as may be prescribed by the By-laws, and all interest in the property of the Association, of persons ceasing to be members by expulsion, resignation or otherwise, shall thereupon vest absolutely in the Association.

XXI. — ELECTIONS.

At each Annual Meeting there shall be elected by ballot the Officers of the Association, who shall hold their office from the close of one Annual Meeting until the close of the succeeding Annual Meeting.

In case of a vacancy in any office it shall be filled by appointment by the Executive Committee; which, however, can appoint a Vice-President only to the office of President.

XXII. — AMENDMENTS.

This constitution shall go into effect immediately. It can be amended only by a two-thirds vote of the members present at a meeting of the Association, after notice of the proposed amendment, subscribed by at least ten members, shall have been given at the next previous meeting, and notice of the same shall have been also given by the Secretary in the notices of the meeting, and by the vote of at least fifty members in favor of such amendment.

BY-LAWS.

I.—PRESIDING OFFICERS.

The President, and in his absence, the Vice-President, shall preside at all meetings of the Association. If neither of these officers be present, a President, *pro tem.*, shall be chosen by and from the attending members.

II.—ORDER OF BUSINESS.

At annual and adjourned meetings, after the appropriate opening thereof, the Order of Business will be:

1. Reading of the Minutes of the preceding meeting.
2. Nominations for Membership.
3. Report of Executive Committee.
4. Report of Treasurer.
5. Report of Committee on Admissions.
6. Election of Members.
7. Election of Officers.
8. Reports of other Standing Committees.
9. Reports of other Special Committees.
10. Special Orders.
11. Miscellaneous Business.

This order of business may be changed at any meeting by vote of a majority of the members present. And, except as otherwise provided by the Constitution or By-laws, the usual Parliamentary rules and orders will govern the proceedings.

III.—SECRETARIES.

The Recording Secretary will keep a record of the proceedings of the Association, and of such other matters as may be directed by the Association to be placed on its files or record; will keep an accurate roll of officers and members, and notify officers and members of committees of their election or appointment; will issue notices of all meetings, with a brief note in case of special meetings, of the object for which they are called; will promptly furnish the Treasurer with the names of persons elected members, and will keep the seal of the Association.

The Corresponding Secretary (with the concurrence of the President, when by the latter deemed expedient) will conduct the correspondence of the Association.

IV.—TREASURER.

The Treasurer will keep an accurate roll of the members ; will notify members of their election ; will collect, and under direction of the Executive Committee, expend, deposit or invest the funds of the Association ; will keep regular accounts in books of the Association, which accounts shall be open to inspection by any member of the Executive Committee ; and will report, in writing at each stated meeting, and to the Executive Committee, as and when required by them, the financial condition of the Association. His report, at each Annual Meeting of the Association, shall exhibit a statement of receipts and expenditures for the year, and of outstanding obligations and appropriations, and an estimate of resources and expenditures for the ensuing year. And his accounts shall at all times be subject to examination and audit by the Executive Committee and by the Association, or by a Special Committee appointed for that purpose.

V.—EXECUTIVE COMMITTEE.

The Executive Committee, subject to the control of the Association, and within the limits of power prescribed by the Constitution and By-laws, may make such provisions and regulations and take such action as shall by them be deemed necessary or proper for conduct of the affairs and protection and disposition of the property of the Association.

There will be a meeting of the Committee on the 22d day of November, 1876, and an Annual Meeting thereof at the city of Albany, on the day preceding the Annual Meeting of the Association, and such other meetings as they may appoint ; and representatives from five judicial districts, or seven members, will be a quorum for the transaction of business. They shall choose from their number a Chairman and Secretary, and each District Executive Committee shall choose from their number a Chairman thereof ; and they shall keep a record of their proceedings and report the same at each stated meeting of the Association, with such recommendations as they may deem advisable.

Under regulations to be prescribed by this Committee, they may provide for action upon any subject or class of subjects through correspondence. Either

First. Whereby the individual votes of the several members of the General Executive Committee can be certified to the Secretary thereof ; in which case ten negative votes (if returned to him within a period to be prescribed by the Committee) shall prevent the adoption of any resolution so acted upon ; or,

Second. Whereby the votes of the various District Committees can be certified by the respective Chairman thereof, to the Secretary of the General Executive Committee ; in which case, however, no resolution shall be regarded as adopted unless it receives the certified approval of at least five of the District Committees.

Subject to the control of the General Committee, and under regulations prescribed by them, their powers, in any matter or matters pertaining only to a district, may be exercised by the District Committee of

such district, which Committee, subject to the like control and regulation, may also call meetings of the members of the Association residing and practicing within the district, to consider such matters.

VI.—COMMITTEE ON ADMISSIONS.

The Committee on Admissions will meet at the city of Albany on the 12th day of December, 1876, and on the day preceding each Annual Meeting of the Association, and at such other times and places as they may appoint, and five members will be a quorum for the transaction of business. They shall choose from their number a Chairman and Secretary.

Candidates for membership must be proposed in writing by one or more members of the Association; and any members of the Committee on Admissions in the district where the nominee resides or practices may affix thereto the approval of the Committee on Admissions, and transmit the same to the Secretary of the Executive Committee for further action. Proposals of the candidates for membership will state the name of the candidate, his place of residence or business, the time and place of his admission to the bar, and such particulars as may best make known his character and professional status.

Each District Committee, in accordance with the regulations prescribed by the General Committee, may examine into the qualifications of any candidate and transmit a report thereon to the Secretary of the Executive Committee.

The proceedings of the General Committee and of each District Committee shall be secret and confidential, except as communicated between the Committees or two members thereof, or as publicity is required under the Constitution.

It shall be the duty of the Committee on Admissions to seek to bring into membership of the Association all the lawyers in the respective judicial districts of the State, of honorable standing in the profession, who have been at the bar at least three years.

VII.—ELECTION OF MEMBERS.

A vote of the Association, when taken upon the candidate for membership, shall be by ballot, and one negative vote in every four shall exclude the candidate.

No person so excluded shall be again proposed in one year thereafter, nor be voted upon by the Executive Committee. And if any person elected does not, within three months after notice thereof, pay his admission fee and dues, and sign the Constitution and By-laws, or, by letter to the Secretary, authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

VIII.—NON-PAYMENT OF DUES.

If any member fails to pay his yearly dues within one month after the first day of May, when the same become payable, it will be the duty of the Treasurer to serve upon him personally, or by mail, a copy of

this By-law, and notice that unless the same are paid within one month thereafter, the default will be reported to the Executive Committee, which may, by order, without further notice, cause the name of such member to be stricken from the rolls, and his membership and all rights in respect thereof will thereupon cease. But upon his written application, satisfactorily explaining the default, and upon payment of all dues to the date thereof, the Executive Committee shall have power to remit the penalty of this By-law.

IX.—COMMITTEE OF GRIEVANCES.

The Committee on Grievances shall choose from their number a Chairman and a Secretary, and shall meet on the day preceding each Annual Meeting of the Association, and at such other times as they may appoint. And twelve members will be a quorum for transaction of business.

Whenever a complaint is presented to the Committee, the Chairman will refer the same to a sub-committee of not less than three members of the Committee residing in the district where the person complained of resides, or an adjoining district, and the Secretary will transmit to them the complaint and notice of such reference.

If the sub-committee, to whom a complaint is so referred, shall be of opinion that the matters alleged are of sufficient importance, they will cause to be served upon the person complained of, a copy of the complaint, together with not less than ten days' notice of the time and place of investigation, which notice shall also state the names of such sub-committee, and they will cause a similar notice to be served on the complainant. The answer or defence to such complaint must be in writing. At the time and place so appointed (or to which the hearing may be adjourned), the sub-committee will proceed to consider the case upon the complaint, and if an answer is so interposed, upon such answer and the evidence. Upon the hearing, each party may appear personally and by counsel, who must be members of the Association. Witnesses shall vouch for the truth of their statements on the word of honor. And if witnesses summoned by or under authority of the sub-committee are members of the Association, refusal or neglect to obey the summons may be reported to the Association for its action.

The sub-committee, after hearing the case, will transmit the pleadings and evidence and their conclusions thereupon to the Secretary, whose duty it shall be to submit the same to the Committee at the next meeting thereof. The Committee will thereupon proceed to consider the same, and may hear the parties and their counsel, and make their decisions, or may refer the matter for further investigation to the same or another sub-committee. And if, upon consideration, they find the complaint, or any material part of it, to be true, they will so report to the Association, with their recommendation in the premises, and in their discretion, upon request of either party, they may also report the evidence or any portion thereof.

The Association will take such action on the report as they shall see

fit. But no member shall be expelled unless by vote of at least two-thirds of the members present and voting.

X. — GENERAL POWERS AND DUTIES OF COMMITTEES.

Except as otherwise expressly provided by the Constitution or By-laws, five members will form a quorum of each standing committee, and each committee will have power to fill vacancies in their number; to adopt regulations for their own government and procedure; to declare a vacancy after three successive absences of a member; to impose and collect fines for non-attendance of their members, and provide for the disposal of such fines; and to order and arrange for the convenient transaction of business and discharge of their duties by correspondence or through sub-committees, or otherwise.

The Chairman of each Committee will have power to call a meeting thereof on due notice; and the Secretary of a Committee or a Secretary of the Association shall, by like notice, call a meeting on the requisition in writing of at least five members of the Committee, or of the President of the Association.

Under direction of each Committee, the Secretary thereof will keep their records and minutes, and prepare and transmit the reports required by the Constitution.

Every Standing Committee shall meet and organize on the same day as elected, and shall also meet annually in the city of Albany, on the day preceding the next Annual Meeting of the Association.

In case any Standing Committee shall fail to organize as above provided, then the President of the Association shall, in the first instance, designate a member of each such Standing Committee to be the Chairman thereof, and another member to be the Secretary thereof, until otherwise provided by such Committee.

When a Standing Committee is organized, it shall be the Chairman's duty to submit to its members such propositions for the suffrages of the Committee as any member may desire, or he may deem germane to the objects for which the Committee were appointed.

XI.—AMENDMENT OF BY-LAWS.

These By-laws may be amended at any meeting of the Association or of the Executive Committee, by a vote of two-thirds of those present, provided that twenty days' previous notice in writing of the proposed amendment shall have been given to the Executive Committee and also to the Chairman of the Committee (if any) especially affected thereby.

RULES AND REGULATIONS

OF THE

EXECUTIVE COMMITTEE.

I.

At any meeting of this Committee, in the absence of the Chairman, one of the attending members shall be chosen to preside.

II.

The action of this Committee upon any subject or matter within the limits of its powers shall be by resolution, in writing. If acted upon by correspondence, the Chairman of the District Committee which proposes or first adopts it will certify such resolution to the Secretary of this Committee, who shall transmit a copy thereof to the Chairman of each other District Committee, who shall then obtain and certify to the Secretary of this Committee the vote of his District Committee. The vote of a majority of each District Committee shall be so certified as its vote, and the Secretary of the General Committee shall enter upon the minutes of the proceedings, as the action of the General Committee, whatever shall be the result of, or sustained by the vote of, at least five District Executive Committees. And in case amendments to such resolution shall be adopted and certified from any District Committee, they shall be acted upon in like manner.

III.

The General Executive Committee and the District Executive Committees may transact business without assembling, and through correspondence by that Chairman or Secretary whenever directed by the Chairman of the General Executive Committee.

IV.

In case of filling a vacant office by correspondence, the Secretary of this Committee shall invite each District Committee to nominate persons therefor, and shall thereafter transmit a list of the persons so nominated to each District Committee, which shall vote thereon in like manner as provided in the second rule.

V.

In addition to the above methods of transacting business by the General Executive Committee, any member thereof may transmit to the Chairman any resolution, in writing, upon any subject whatever, and if the Chairman shall approve of submitting the same to the Committee, he shall forward it with such approval to the Secretary, who shall thereupon print and submit the same to all the members of the Committee, by mail, who shall forthwith return their votes thereon to the Secretary. Ten negative votes shall prevent the passage of any such resolution, and if that number shall not be received by the Secretary within ten days after he shall have mailed it to the members, such resolution shall be adopted, and so entered by the Secretary in the minutes; provided, such resolution receives a majority of the votes cast, and at least four affirmative votes. The Secretary shall submit, with every resolution, so sent by him, a copy of this clause of Rule V.

VI.

The Secretary shall promptly transmit to every officer of the Association (which includes all the Standing Committees), and also publish in the Albany Law Journal a statement of every resolution of this Committee, adopted by correspondence, and a transcript of the minutes of every meeting of this Committee.

VII.

Whenever the name of any members of the Bar shall have been duly transmitted to the Executive Committee, or its authorized officers, for the action of the Committee, it shall be the duty of the Secretary of this Committee to transmit to each of the members of this Committee a communication stating that certain persons have been duly proposed for membership, giving the names and addresses of such persons and calling upon the members of the Executive Committee to pass upon the names of the persons so proposed; and any applicant so proposed, in the absence of any dissenting vote cast after the expiration of ten days, in response to such communication, shall thereby be and become a member of the State Bar Association, upon complying with the Constitution and By-laws. The names of such persons as shall not meet with such approval shall be subsequently acted upon by the Executive Committee.

PROCEEDINGS
OF THE
New York State Bar Association
NINETEENTH ANNUAL MEETING.

ALBANY, N. Y., JANUARY 22D AND 23D, 1896.

The meeting was called to order by President Robertson.

The President: Gentlemen of the New York State Bar Association:

The custom has been for the president of the Association to deliver his address at the opening of the annual meeting. The reason for the departure from this custom at this meeting is obvious. The greatest mistake that Pharaoh made in all his life, was in attempting to follow Moses through the Red Sea. If your president had attempted to follow Dr. Depew in his eloquent address, he would have committed a greater blunder than Pharaoh.

The president then introduced the Hon. Chauncey M. Depew, who delivered the following address:

ADDRESS OF CHAUNCEY M. DEPEW, LL. D.

Mr. President, and gentlemen of the Bar Association of the State of New York:

You will not expect of me a technical discussion of constitutions, codes or statutes. The needs of the State or the country in these respects will be ably presented in the papers which will be read during your session.

A meeting of the lawyers of this great commonwealth has a profounder meaning than suggestions for amendments to laws or facilities in procedure. By virtue of our official distinction as officers of the court, there devolve upon us public duties of the greatest importance. The larger the question and the greater the perils involved in its decision, the more clear is the mission of the Bar Association to give to the subject its attention and to the country the results of its calm deliberation. Never during the seventeen years of our existence has our meeting been held at a period so interesting and at the same time so fraught with dangers.

Our's is a lawyer's government. It was the agitation by the patriotic members of the profession which brought on the Revolutionary War. It was the conservative wisdom of the lawyers which framed the Constitution of the United States. Twenty of our twenty-four presidents have been lawyers, as were twenty-four of the fifty-four signers of the Declaration of Independence, and thirty of the fifty-five members of the convention which framed the Constitution of the United States. A large majority of the

members of both houses of Congress, and of both houses of the Legislatures of the several States have always been and still are, members of the profession.

The checks and safeguards against revolutionary action which distinguish the institutions of the United States from those of all other democracies are the fruits of the wisdom and foresight of great minds trained to the law. Therefore the sentiment contained in Cicero's famous maxim, "*silent leges inter arma*," is specially pregnant for the hour. Cicero was the greatest lawyer of his time, and of the whole Roman period. Like most of the eminent members of the bar in our days, he was also an orator and a statesman of the foremost rank. In the forum and in the Senate he had fearlessly defended the right and assailed the wrong, and maintained justice and liberty. A craze for conquest had created armies. Wonderful victories had made famous generals, and triumphal processions had inflamed and intoxicated the people. He saw what no other statesman of his period did, that beside the captive chained to the chariot of the conqueror as it proudly rolled along the Appian Way with the acclaim of the multitude, stalked also in chains the figure of Roman liberty. This wrung from him the sentence which has become one of our legal maxims. Cæsar crossed the Rubicon. The army and the people gave him dictatorial power. The patriots assassinated him. The army executed the patriots. The successful general and dictator instructed his soldiers to pursue and kill the great lawyer, not for any crime, but for words spoken in debate in the Senate of Rome for the Republic, and against its arch enemy. When Cicero's throat was cut upon the highway by the soldiers of Antony,

the body of Roman Law, which protected life and property, and judicially decided rights and remedied wrongs, and which had been five hundred years in slow and laborious construction, was buried with his blood. From that time until the Dark Ages the will of the autocrat of the hour was the law of the world. It devastated provinces. It depopulated countries. It made deserts of vast territories. It consigned to untimely graves with every form of horror and suffering untold millions of the human race. The falling temple of liberty carried down in its ruins civilization, law, learning, art, humanity and religion. Centuries passed by, all dedicated to war, until the church arrested its savagery for the moment by the truce of God. This declaration of the pious and renowned Bishop of Aquitaine is the foundation of the jurisprudence of modern times. By the Truce of God, for four days in the week one simple law of life and liberty prevailed. The traveler could be upon the highway, the merchant dispose of his goods, the artisan work in his factory, the farmer follow his plough, the housewife and the maiden be afield garnering the harvest, without fear of murder, outrage, conscription or robbery. But, for ages yet to come, under the necessities for protection, induced by perpetual wars, Europe was divided into masters and slaves,—the masters the feudal lords, and their armed retainers,—the slaves, the tillers of the soil, the artisans and laborers. The tradition and education of the ages that rights could only be established and wrongs could only be redressed by the sword, created the Law of the Sword. For hundreds of years all disputes were settled by the gauge of battle. Titles to real estate, difficulties as to boundary lines, ques-

tions of contract and of tort, matters of heritance and the settlement of estates were submitted to private combat for "justice." The courts met at the appointed places. The judges sat clothed in their robes of office. The criers of the court announced the case, and the litigants entered the lists armed for the fray. The rules for the combat were as well established as the rules of trial are in the courts of to-day. The theory over it all and under it all was that the "God of Battles" would be on the right side. Cromwell, who was intensely religious, fought for his faith. Napoleon, who had no religion, fought for glory. Each declared that God was on the side of the strongest battalions. The Almighty in these judicial combats evinced his abhorrence of them by so far withholding His interposition that the most skilled athlete and the best trained duellist always succeeded. So strong is the power of custom that this right to appeal to private combat by the dropping of a glove before the judge that the arbitrament of arms actually remained a part of the Statute Law of England's colonies in America until the independence of our Republic—and of England herself until 1818. Nay, more, it survived in active practice until fifty years ago, in the form of the duel, in nearly every part of this country. No man could retain his position at the bar or in society who would refuse a challenge. In the ante-bellum days hundreds of brilliant young lawyers who went to the South to try their fortunes were challenged by the best shots of the local bar, who wanted to remove the dangerous competition of their Yankee rivals; and many of them fell before the bullets of the trained duellists to whom, below

the Mason and Dixon line, pistol practice was an essential part of a "gentleman's" education.

The best evidence of healthy public sentiment, or rather of Christian civilization and enlightenment in the law, is that to-day the man who loses caste in the duel is not he who refuses, but he who challenges. In every State in the Union the duellist has become by statute a felon, and the most striking instance of any, of the change in public sentiment is that juries never hesitate to convict him of a crime. Public sentiment now declares that true courage hands the duellist or would-be duellist over to the police, and appeals to the law for the adjustment of difficulties.

While this healthful advance in civilization and this undoubted public sentiment supporting it, mark the new relations between individuals, there has been little if any progress in the peaceful, lawful and orderly settlement of international disputes, involving communities.

The barbarous, murderous and uncertain methods of the ancient and the medieval periods still prevail. The alarms of war agitate a world. The columns of our daily papers are filled with cables and telegrams announcing the rage of nations and the imminence of their flying at each other's throats. The battle blood which is the inheritance of the ages is aflame for fight.

Only one power keeps the nations of Europe from instantly declaring war. The bankers and business men have become the arbiters between nations. In modern conflicts, so vast and expensive are the preparations for and operations of war that the longest purse wins. Neither Germany, nor France, nor Austria nor Italy, nor Russia nor Spain can hurl their armies at each other and equip their navies for

fight without the consent of the great bankers of the world. The only two nations which may be said to be free from this thralldom, because of their wealth, their commerce and credit are the United States and Great Britain. "War," said Erasmus, "is the malady of princes." He might have added, the danger of Republics.

The spirit of war — largely the inheritance of the dynastic ambitions of royal houses — is the chief incentive to the employment of the best inventive genius for engines of destruction. Improvements in naval architecture, are first for war and next for commerce. If armor is made which will resist a new shell, there follows the gun that will fire the shot which will pierce the armor. If a "magazine" is constructed which will destroy its score of human beings in as many seconds, along comes the machine gun which will kill its hundreds of fathers, brothers, sons and husbands in the same time. The resources of chemistry and electricity are exhausted to discover the implements by which great armies may be annihilated in an hour.

The events of the past few weeks have demonstrated how easy it is to arouse the fighting blood among our own people. A generation has come upon the stage since the Civil War who are eager for battle.

The greatest ministers and leaders for peace whom I ever met were the generals whose fame fills the world, and whose victories were in our civil strife — Grant and Sherman and Sheridan. During the whole of their lives after the war they were the apostles and preachers of peace.

An Eastern writer says: "We have furnished a

great and famous soldier whom your historians scarcely mention, but who ought to rank above Cæsar or Hannibal or Napoleon, and his name and title are Genghis Khan. To him belongs the unequaled glory of having slain 18,400,000 human beings in eleven years." He had a definite object, which was to destroy cities and villages and make the whole world a pasture field for nomadic tribes. Attila, the Scourge of God, on the other hand, made it his proud boast that no grass ever grew upon the fields which had suffered the hoof beats of his horses. How much greater, how much nobler, how much more humane was the sentiment of the philosopher who said that "the true benefactor of mankind is the one who makes two blades of grass to grow where only one grew before!" Napoleon, at St. Helena, made this apologetic remark: "I only killed a million of men in all my wars." He did not mention the ten millions who died from starvation in the wildernesses which he left behind him.

The strongest evidence of the fervor and force of this sanguinary sentiment among us to-day is the action of Congress upon the President's Venezuela Message. By the Constitution of the United States the war power belongs to Congress, and yet the Senate and House of Representatives with unanimity and hot haste, rushed to record their approval of what they believed at the time to be a declaration of war, and their chaplain appealed to the Prince of Peace with this marvelous invocation: "O Lord, may we be quick to resent anything like an insult to our nation; so may Thy Kingdom come and Thy will be done on earth as it is in Heaven. Amen." One does not know, in the presence of such a travesty upon the

Sermon on the Mount, whether to say "Good Lord?" or to exclaim "Great Scott!" The lesson seems to be enforced that a hasty or passionate president could plunge the nation into war, and the reason and justification for its sacrifices of blood and treasure and industrial interests would be left for academic discussion after the strife was over.

There are to-day in Europe — on a so-called peace footing — seven millions of men in arms. Every laborer, as he goes to his shop or to his work in the fields, carries upon his back and keeps upon his back during the whole of his day a fully armed soldier. The combined war debts of these governments are sixteen thousand millions of dollars. Such are the burdens under which anarchy grows and socialism thrives, and populations seek by emigration to the wilds of Asia and the wastes of Africa and the tropical countries of South America, as well as to our own more favored land, an escape from intolerable conditions.

There are occasions when war is both right and necessary, and a nation must embark upon it without counting the consequences, but the issue of battle is never certain, nor does the arbitrament of war always end in right or justice. The struggle between Prussia and Austria for supremacy in the German Empire was decided not by the merits of the case, but by the needle gun in the hands of the Prussians used against the old-fashioned musket of the Austrians. To his everlasting honor the old king of Prussia, the first emperor of Germany, a soldier born in camps and whose life was practically passed in arms, gave his best efforts for the maintenance of the peace of Europe. Napoleon the Third, to sustain

a falling dynasty, declared war, and lost his throne, deprived France of two of her fairest provinces and put upon her a load of debt involving grinding taxation.

Our war of 1812 was right if our dispute with Great Britain and our demand for fair treatment and justice could not be settled by arbitration. It is a curious and impressive fact that the purpose for which that war was made was not gained by the war. The *casus belli* was not considered in the treaty of peace, but was settled afterwards by arbitration. The Civil War might have been averted at one time by payment of a proper indemnity to the owners of the slaves. In the passions of the hour that period passed by, and the slaves were freed and the Republic held together by our great civil strife. But the cost of the war was half a million people killed, a million crippled and wounded, the devastation and destruction of all the material interests and visible property of ten States; and the loss in money of four thousand millions of dollars on the one side and as much on the other. The Republic united and free is worth all that it cost both in blood and treasure, and much more; and yet, had the south been as strong in credit and resources, with as large an available fighting population as the north, it is doubtful whether a war between men of the same blood, each thinking they were fighting for the right, would not have ended in a drawn battle.

The argument has recently been advanced by Bismarck, by the London Times, and only the other day by a distinguished judge speaking to a company of students, that without war the moral tone of a people deteriorates, and they lose a fine sense of patriotism

and a keen appreciation of national honor. At the breaking out of the Civil War, of the thirty millions of people in the United States there were not twenty-five thousand who had had any actual experience of campaigns; and these few veterans had only served in the Mexican War of twelve or fifteen years before. Ours was pre-eminently a peaceful population. For three generations the blood of the people had not been stirred by a great conflict nor themselves called to arms. And yet when the flag was fired upon, and the existence of the Republic was at stake, there was a popular uprising and enlistment unknown in ancient or in modern times. There were in this country three millions of men in arms on the one side or the other. At Donelson, Shiloh, Corinth, Chickamauga, Vicksburg, Fredericksburg, Chancellorsville, Gettysburg, the Bloody Battle of the Wilderness, and Sherman's March to the Sea, were exhibited valor, heroism and patriotism of a higher and nobler type than any other age can boast. The lawyers did their best to bring about a peaceful settlement between the north and the south; but when the armed struggle came, they enlisted for the war, in proportion to their number, in far greater ratio than any other profession, calling or vocation. Nearly all the volunteer officers who became brigadier and major-generals, and won distinction equal to that attained by the gallant graduates of West Point, were members of the profession of the law. No lawyer better fulfilled his duty to his profession, lived up to a higher ideal in politics and in public life, or performed more heroic deeds upon the battlefield than that brave and distinguished member of our Association who died within the last week, Gen. Francis C. Barlow.

Now is the time for the profession to perform a great work upon the lines of the lawyers of the centuries in promoting international arbitration. The present dispute between the English-speaking races which is agitating the world calls for both practical wisdom and legal acumen for its solution. There is no dissent in this country from the Monroe Doctrine as promulgated by President Monroe and interpreted by Jefferson, Madison, Webster and Calhoun. Alexander Hamilton, the greatest lawyer of the Revolutionary period, and one of the most creative geniuses of our country, stated this rule for our guidance in the Federalist with that clearness of insight into the future by which he stamped upon our institutions the elements of conservatism and perpetuity. No European aggressions upon the Americas will be permitted by the United States which will endanger our safety or subject our sister republics to European despotisms. Yet any one who studies the Monroe Doctrine will see how in each individual case, except where there is a flagrant violation, like the French invasion of Mexico, the applicable interpretation of it should be the subject of judicial determination. The President's message to Congress presents a novel view of the principle. If there is a dispute as to a boundary line between a South American Republic and a European power, no matter how insignificant the territory involved, or how distantly it affects the independence of the country or how remotely it may interest us, we must demand that the two governments arbitrate the line, and if they refuse, we must find out as best we can what the line is and enforce it by war. If, however, pending our inquiry, the two parties agree, we have no further rights or duties. This seems to sur-

render the doctrine, if Venezuela or Brazil chooses to sell a portion of its lands. A slight extension of the principle compels us to assume a protectorate over all these republics. Their enterprises and industries are almost entirely owned or controlled and carried on by Americans, English, Germans, French and Italians. Their governments are in almost perpetual revolution, and the military dictator of the hour confiscates property right and left, except that of foreigners. If he could rely upon the United States to protect him, he would treat the lives, possessions and business of the Germans, English, Italians and French with the same impartial appropriation as he does those of his countrymen. These nations would demand reparation and redress. This would involve the collection of substantial damages, and we would be in a measure bound to assume the quarrel. We might, at the whim or necessities of the successful military dictator of Venezuela or the Argentines, of Brazil or Ecuador, of Paraguay or Peru, of Yucatan or Honduras, of Chili or Bolivia be involved in frequent wars with the powers of Europe. This would require an immense navy and large standing army.

The feeling in the United States against Great Britain is more easily aroused than against other countries for many reasons. In the first place, we are blood relations, and family quarrels are always hasty and fierce. Our battles of the Revolution and of the War of 1812 have been with England. The attitude of her government during our Civil War was specially irritating, and disputes about boundary lines and fisheries have frequently arisen. The diplomatic correspondence of her ministers, especially of those who have not visited America, is often characterized

by a spirit of paternal chiding or coddling which we rightfully and vehemently resent. But while this feeling has not abated with us, there has come into power in Great Britain — and we have scarcely noticed it, indeed it has only been brought strongly and convincingly to our attention by the recent terrific outbreak against Germany — a force unknown and unheard of at the time of George III, or the War of 1812, or even our Civil War. It is the all-powerful democracy of Great Britain, which universal suffrage has brought to the front, and which is to-day the real power in the British Islands. This force is cordial in its friendship for our people and country. There are no obstacles in the way of a peaceful adjustment, upon a permanent basis, of all present and future difficulties between the democratic spirit — the people — of the United States and the democratic spirit — the people — of Great Britain.

Unless we should be driven to it by a stress of circumstances not now perceptible, or by difficulties and dangers which could not be averted in any other way, we do not want a great standing army. It would be a menace to our peace, a menace to capital and a menace to labor. In a Republic a dictator always stands in the shadow of a large regular army.

We require a navy sufficiently large to protect American citizens and American commerce in any part of the globe. We should have our ports in condition to be defended in the possible, but scarcely probable, event of war with a foreign nation. But to have a navy on a footing with the great sea powers of Europe, and a standing army equal on a peace footing to the emergency of sudden hostilities, involves just the dangers of foreign entanglements against which

Washington warned his countrymen in his farewell address. The maintenance of this force in idleness would take permanently half a million of youth from our industries, and the Federal government would either have to meet an enormous annual deficit of revenue by piling up debt, or resort to the process of direct taxation upon the people.

The United States is the only nation so situated that it can with honor and safety move upon the pathway of peace for an International Court of Arbitration. North of us lies Canada with its vast territories — larger in area than the United States — but with a sparse population of some five millions of people. It seeks no war. It wants no hostilities and no disagreements with our Republic. It is anxious for commercial union. Political union will follow whenever we desire to extend the invitation. So there is no danger from Canada. To the south of us is Mexico, with only twelve millions of people, of whom ten millions are Indians, uneducated and degraded. We need fear nothing from Mexico; nor do we want her. That population incorporated into our political system would corrupt our suffrage. The presidency of the United States and the political control of the Republic might be decided by the Indians of Mexico. Farther away are the Republics of the Isthmus of Darien and of South America. The perpetual wars between these nations and the constant internal revolutions and feuds which have characterized them have left that part of the Western Hemisphere at the end of three hundred years, though its climate, soil and resources, are as attractive and great as those of the north, with a scattered population of fewer than twenty millions, two-thirds of whom are Indians and

half-breeds. We have no fear of them. And now look at Europe.

It is three thousand miles across the ocean from the nearest seaport of any European power to any seaport of the United States. Our country has seventy millions of people, and seventy billions of dollars of accumulated wealth. So great has been our prosperity, because of one hundred and two years of peace and only five of war, so free have we been from the strifes which have exhausted the resources of Europe, that the taxing power of the government has not yet touched for any purpose the real and personal property represented in these seventy thousand millions of dollars of accumulated wealth. According to the census of 1890, we have 9,200,000 fighting men. The experience of the Civil War has shown that from them could be drafted, mobilized and instructed in three months three millions of soldiers. All the transports and navies of the world could not land upon our shores an army which could march 100 miles from the sea coast, or even return to their ships. With all the world in arms against us, the vast interior of our continent, except in its industrial and economic phases, would know nothing of the trouble and never see a foreign uniform — except on a prisoner of war. Secure in our isolation, supreme in our resources, unequaled in our reserves, and free from dangerous neighbors, we occupy among the nations of the globe a position so exalted and safe that to compare us with other countries would be absurd. The statesman or the politician who really fears for the safety of this country is a fool. The statesman or politician who does not fear (because he knows better), and who yet preaches of our weakness and our

vulnerability, is a demagogue, and he insults the intelligence of the American people. This great reservoir of force for all purposes—the American Republic—this mightiest engine of war and most beneficent power for peace on the face of the globe, can extend the right hand of fellowship to warring brethren across the Atlantic and promulgate with honor and dignity a scheme for an international tribunal, and lead in the movement.

The first crisis in our national history came soon after the machinery of our government was put in motion by the first president, General Washington. The people demanded a war with England, to help France, when we had neither arms nor credit nor money, and France was powerless and almost bankrupt in her revolutions and her internal and international complications. The United States needed commerce and trade; needed the freedom of the seas; needed the control and improvement of its rivers and inland lakes for the development of its resources. It required peace, rest, and opportunity to attract immigration, to build its States, to utilize its vast water power, and to bring out its exhaustless treasures from field, forest and mine. The task for peaceful settlement was entrusted to the head of the bar of the United States, the Chief Justice of the Supreme Court, John Jay. With infinite tact, with marvelous wisdom, with judicial candor and legal acumen he performed his immeasurably great duty. For the first time in treaties between nations was inserted, through his influence, a declaration for the adjustment of all disputes between the United States and Great Britain by arbitration. Under the beneficent working of this principle, nearly one international

case a year has been settled during the past eighty years. These cases have excited no comment, because it is only war which illumines the sky, and, in the baleful conflagration which consumes peoples and properties, attracts the attention of the world. General Grant held it to be a crown as glorious as that of Appomattox that he brought about the Genevan arbitration under this clause of the treaty of Chief Justice Jay. The people of the English-speaking nations must get beyond the narrow idea of accidental arbitration for each case as it may occur, with its semi-partisan organization, and agree in constituting a permanent international court.

Massachusetts and Rhode Island had a difficulty which in other cases would have led to war or intestinal feuds. It was settled by the Supreme Court of the United States. Missouri and Iowa would be at each other's throats, but the Supreme Court of the United States calmly considered the questions at issue between them, and its judgment was accepted. The question of the liberty of Dred Scott went to this tribunal in the midst of the most passionate political discussions of the century. The decision of the court was against the dominant sentiment of the hour, but it was accepted until legislation and constitutional provisions remedied the difficulty. The great debate over the income tax divided sections and parties, and in the arena of politics the matter was pregnant with political revolutions. The Supreme Court decided the question one way, and one judge of the nine, changing his opinion upon reflection, reversed the judgment. The country at once accepted the decision as the verdict of justice and of right.

Had there been an international Court of Arbitra-

tion in the Venezuelan matter, Lord Salisbury could not have pleaded that there was a boundary line embracing territory so long and unquestionably held by the British that they could not in honor submit the question of their title to the court. Both the English and the Americans have been educated to believe that though anybody may make a claim upon any property, the court can be relied upon to dismiss the complaint, if it is unworthy of being entertained, or disavow jurisdiction, should there be any doubt, or if it considers the matter, to adjust it upon the eternal principles of justice and right. The idea of securing at any early date an international court representing and embracing all the nations of Europe and of North and South America is probably at present Utopian. The tremendous war spirit existing among the peoples of continental Europe, the office holding and patronage of their armies, the problems of race, balance of power and dynasty involved, would deter any of those nations from an immediate acceptance of the international court. But the United States and Great Britain have no reason to be guided by the standards of the continent. They have the same common law. Their legislation has been for the past fifty years along similar lines of progress and liberty. Their courts and methods of procedure are alike in most of their characteristics. The cases reported and principles settled in each country are quoted as authority in the courts of the other. American lawyers have found it not difficult to become great in the English forum, and English, Scotch and Irish lawyers have been successful at the American bar. We speak the same language, we read the same bible and the interests over which we clash are always susceptible of

judicial construction and adjudication upon principles which we mutually understand. It is possible for these two great countries, out of this present difficulty to evolve a tribunal of international law and justice, which shall be in perpetual session, whose members shall be selected with such care, whose dignity shall receive such recognition and whose reputation shall be so great that each nation can submit to it any question in dispute and bow to its decision with safety and honor.

We, the lawyers of the United States, and our brethren, the lawyers of Great Britain, faithful to the traditions of our profession and the high calling of our order, can agitate and educate for the creation of this great court. We recall that even in the days of almost universal assent to the divine authority of kings, Justice Coke could boldly challenge and check the autocratic Charles, with the judgment that the law was superior to the will of the sovereign. Christian teachings and evolution of two thousand years, and the slow and laborious development of the principles of justice, and judgment by proof demand this crowning triumph of ages of sacrifice and struggle. The closing of the nineteenth, the most beneficent and progressive of centuries, would be made glorious by giving to the twentieth this rich lesson and guide for the growth of its humanities and the preservation and perpetuity of civilization and liberty.

WEDNESDAY, JANUARY 23d, 1896.

The Association met, pursuant to adjournment, in the Supervisor's Room, at Albany, N. Y.

The President called the meeting to order and delivered the following address:

ANNUAL ADDRESS OF THE PRESIDENT OF THE NEW YORK STATE BAR ASSOCIATION, HON. WM. H. ROBERTSON.

Gentlemen of the New York State Bar Association:

The New York State Bar Association was incorporated by an act of the Legislature in 1877. It has accomplished much. Its usefulness is recognized throughout the State and beyond its limits. It stands high in other States. Ralph Stone, the distinguished secretary of the Michigan State Bar Association, who is familiar with the standing of the various State Bar Associations in this country, in an interesting and instructive paper read at our last annual meeting, said: "Your Association stands easily at the head of such organizations in the character of its membership, in its services to the law, and in utility to the profession. You are known everywhere throughout the United States as the leading State Bar Association in the country in every respect, and that the lawyers of other States look up to you as a pattern worthy of imitation." Hon. Henry B. Brown, a justice of the Supreme Court of the United States, recently said: "The Bar Association of the State of New York, if it had no other title to fame, the stand it has taken with regard to two or three questions of public interest, and with regard to the appointment of two or three men, at different times, would have vin-

dedicated its right to existence and established its claim to recognition and to the admiration of the community by those very acts."

Judges and eminent lawyers of other States have repeatedly spoken in terms of high commendation of this Association and its good work.

Good laws, efficiently administered, contribute largely to good government. The enactment of such laws and the defeat of bad ones will furnish this Association with a vast amount of labor. Since its incorporation nearly all the reforms by statute or the organic law of the State have been made through its suggestions and efforts.

The good work it has already done is an earnest of greater usefulness in the future.

Since New York became a State, progress in furtherance of the interests, the rights and the powers of its citizens, though often slow, and at times almost imperceptible, nevertheless has been great and altogether gratifying.

Under the colonial government of the province of New York the political power of the people was extremely limited. The King appointed the Governor, the Governor appointed the Legislative Council, and from a small class of its citizens an Assembly was chosen. The King, the Legislative Council and the Assembly constituted the Legislature, but no bill could become a law without the approval of the Governor, so he was virtually the Legislature. Judges, Sheriffs and other important officers were appointed by the Governor and the Legislative Council created by himself.

Under our State Government the elective franchise has been extended, general and local offices filled by

election instead of by appointment, and other changes made in the same direction.

There have been equally important changes in criminal law. Since New York became a State, horse stealing was a capital crime and the records show for that crime men have been tried, convicted and sentenced to be hung, that men have been indicted for grand larceny, tried, convicted and sentenced to be punished in the pillory or at the whipping post, but horse stealing ceased to be a capital offense, and the pillory and the whipping post were abolished long ago.

Your attention is called to some reforms already accomplished through the influence of the Association, and to other proposed reforms which it favors.

ADMISSION TO THE BAR.

The present admirable system for admission to the bar is the result of persistent efforts of this Association. The method that has long prevailed was unjust to applicants, detrimental to litigants, and unsatisfactory to the profession. There were five boards of Examiners, one in each Judicial Department. It was a plan not to be commended, and not productive of the best results.

The applicants in one department might have an easy examination, insufficient to test their fitness for the duties devolving upon them. In another department they might be subjected to a rigid examination, but there can be no objection to that as no lawyer can be too well fitted for the practice of his profession.

The Association has long been of the opinion that a rigid and uniform rule should be applied to all applicants for admission to the bar, not only as a

matter of justice to applicants, but as a matter of protection to litigants, who rely, and who have a right to rely on the assumption that those who are admitted to the bar, are, and necessarily must be, competent to protect their interests.

Accordingly a movement was started by the Association in 1892 and a bill was prepared by one of its committees providing for a thorough and uniform examination of all applicants throughout the State. It met with unexpected opposition in 1892 and 1893, but in 1894, after a most energetic struggle on the part of the Association, it was passed by a not altogether willing Legislature, and the desired object accomplished. This Association is entitled to the credit of placing all applicants on the same footing and protecting all litigants from incompetent lawyers.

Under this law the Court of Appeals appointed as a State Board of Law Examiners, William P. Goodelle, Austin G. Fox, and Franklin M. Danaher, lawyers of eminence and of recognized professional standing, to examine all applicants in this State for admission to the bar.

These gentlemen entered upon their duties in 1895, and the result has been satisfactory and gratifying, and more than justifies the changes in the laws that brought about the new system.

The proofs by applicants showing a compliance with the requirements of preliminary education and study, as established by the Court of Appeals, are now rigidly scrutinized and none are admitted to the examinations except those who have fully complied with all the prerequisites of the rules.

The Board gives especial attention to the preparation of the examination papers and they are made as

nearly uniform in each department as is possible from the nature of the work, so that all students in that regard are put upon an equality and the spectacle of applicants hunting for an easy department in which to be examined is done away with.

The papers are comprehensive and practical, but not too severe; they are fair tests of the knowledge of the applicant, and by reason of a just and well considered system of marking adopted by the board, wherein intelligence and general education are considered as factors as well as exact answers to questions put, students are treated fairly and compelled to prove their capacity for dealing with the complex questions that are daily perplexing the practitioner.

Students now recognize the fact that the standard of admission to the bar has been materially raised; and the educational effect of the board's work is already apparent to them, and will very soon be felt and appreciated not only by the bar but by the public also.

The board held two examinations in each department during the year, and one for the State-at-large — eleven in all. Five hundred and fifty-eight applicants filed their papers, of whom 519 were examined; of these eight were women, six of whom were admitted.

It is harmful to the student and detrimental to the standing of the bar to admit non-qualified applicants to practice, for, as a rule, they cease to be students when they are admitted, and as the only effect of a refusal to admit at an examination is to postpone the admission of the applicant until he is qualified.

The New York State Bar Association in this too

long neglected subject of admission to the bar is bringing about similar results in other States.

Many States having had their attention called to our law have adopted our plan, and it is very likely that this great reform initiated in New York under the direct auspices of this association will be adopted by all the States of the Union.

COURT OF APPEALS RULE 7.

Rule 7 of the Court of Appeals as recently amended, is the outcome of the recommendation of the president of the association in his address at the annual meeting in 1894.

It requires the appellant twenty days before the cause is placed on the day calendar, to serve on the respondent's attorney three printed copies of his points, with a reference to his authorities. Within ten days after such service the respondent must serve on appellant's attorney, three printed copies of his points with a reference to his authorities. Within five days thereafter the appellant may serve on respondent's attorneys three copies of his points and authorities in reply. No points or authorities not served as aforesaid can be used on the argument.

The importance of this rule to practitioners in that court and to the court itself, is obvious.

Under its requirements the attorney for either side will know in advance all the points to be presented and all the authorities to be cited by his opponent on the argument, in place of the uncertainty in these respects which in a limited extent has heretofore existed. With all this light, the attorney will, unless indolent or incompetent, make the strongest possible argument in support of his views.

The court having its attention called to the chief questions in the case by the arguments of the attorneys for the respective parties, based on the same knowledge, and in the absence of points raised and authorities cited by one side and not fully considered by the other, will readily and with less labor determine what the law is, and where the right lies.

INCREASED REPRESENTATION IN THE LEGISLATURE.

That part of the Constitution which increases the representation in the Legislature took effect since our last annual meeting.

The change is believed to be in the interest of the people.

Under the Constitution of 1821 the senate consisted of thirty-two senators, the State was divided into eight senate districts, each district elected four senators; the senatorial term was four years. It provided that the term of one-quarter of the senators should expire annually and one-quarter should be elected annually.

The assembly consisted of 128 members who were apportioned among the several counties of the State, based on the number of their respective inhabitants, exclusive of aliens, paupers, and persons of color not taxed.

These members were elected on the general ticket in their respective counties.

Under the Constitution of 1846 the senate consisted of thirty-two members. The State was divided into thirty-two senate districts, each district elected one senator, the senatorial term was two years, the term of all members of each senate expired at the same time.

The assembly consisted of 128 members who were apportioned among the several counties of the State on the same basis as those under the preceding Constitution, except paupers were not excluded.

A county entitled to more than one member was divided into assembly districts, each district elected one member annually. Under the Constitution of 1821 there was at all times much legislative experience in the senate, and so there was under the Constitution of 1846 by reason of the re-election of senators.

It has been said that under the Constitution of 1821, owing to the large senate districts, and the fact that members were elected on general ticket in their respective counties, men of greater ability and influence were elected than under the Constitution of 1846 when the senate and assembly districts were smaller. But on examination it will be found that senators and members elected under the Constitution of 1846 were at least equal in ability and influence to their predecessors under the preceding Constitution and that they far exceeded them in ability and power in the aggregate.

And so it is fair to presume that the senate and assembly under the Constitution of 1894 will contain more ability and influence in the aggregate generally than the senate and assembly under previous Constitutions.

Horace Greeley favored an increased representation in the Legislature and insisted that it would tend to check corruption.

GENERAL LAWS.

The Constitution favors general laws and prohibits special ones, when the object can be accomplished by

a general law. But a general law must be thoroughly examined with a view of ascertaining whether it may not be a cover for vicious legislation which could not be had under a special act.

A few years ago a bill was introduced in the senate which permitted the Commissioners of the Land Office to allow State lands sold by them to be re-conveyed to the State upon return of the purchase money. There would seem to be no serious objection to such a bill and yet it was found upon inquiry that the property which the bill was intended to reach had been greatly depreciated since the sale by circumstances over which the State had no control. No special law that would have accomplished the desired purpose could have been passed. The bill was reported adversely.

Not many years since another bill was introduced in the senate to allow the representatives of a deceased plaintiff to revive an action without application to the court. The bill at first sight did not seem objectionable, but when it was ascertained that in the action in question the plaintiff had been dead twenty years and the defendant's witnesses were dead or could not be found, the bill met with an adverse report. Numerous instances might be cited where similar attempts have been made to pass general laws equally vicious. Many laws are a fraud upon this constitutional provision. They are general laws in form, but special ones in fact. For instance, a law is passed which by its terms applies only to cities having a population of not less than a million, and there is but one city in the State of this description. Many other laws are so framed as to evade this constitutional provision. This ought not

to be, as the Legislature in passing them knew that it was a violation at least of the spirit of the Constitution.

COURT OF APPEALS.

Present Condition of its Work.

Attention is called to the present condition of the work of the Court of Appeals. On the 14th of January, 1895, there were 909 cases on its calendar. During the year 159 were added. There were 537 appeals on the calendar undecided when it adjourned last December, and there were 411 not on the calendar, making the total number of appeals pending in that court on the 1st of January, 1896, 948. It is evident that there is too much work for that court. Relief must be had in the interest of litigants and for the comfort of the court and the satisfactory discharge of its duties. Able and experienced practitioners in that court have expressed the opinion that 300 cases (in which the same question is not involved), are all the court should be required to hear and decide annually. The Constitution confers upon the Legislature the power to restrict the right of appeal, but declares that the right of appeal shall not depend upon the amount involved. Will the Appellate Division of the Supreme Court by a thorough and careful examination of the cases before it, satisfy litigants so as to reduce the number of appeals? It is believed that it will, but the result will show no substantial reduction on that account. Will the constitutional limitation of the jurisdiction of the Court of Appeals enable it to dispose of its arrearages and thereafter keep abreast of its work? If, not, shall a second division be created? That is not desirable, but if so, how shall the judges of that division be obtained? Shall

they be taken from the Appellate Division or from the Circuit? There is no question more important than this for the consideration of this association. It is of the utmost importance to litigants and the legal profession.

Adverse reports are checks on hasty, improper and vicious legislation.

The Senate Judiciary Commission in 1874 reported adversely on one hundred and fifty-seven bills. These reports were all sustained by the senate, although vigorous efforts were repeatedly made to overcome them.

In 1867 the Session Laws filled two volumes containing 2,485 pages.

In 1868 the Session Laws filled two volumes containing 2,091 pages.

In 1869 the Session Laws filled two volumes containing 2,407 pages.

In 1870 the Session Laws filled two volumes containing 2,139 pages.

In 1871 the Session Laws filled two volumes containing 2,172 pages.

In 1872 the Session Laws filled two volumes containing 2,185 pages.

In 1873 the Session Laws filled one volume containing 1,387 pages.

In 1874 the Session Laws filled one volume containing 921 pages.

In 1875 the Session Laws filled one volume containing 811 pages.

In 1876 the Session Laws filled one volume containing 483 pages.

In 1877 the Session Laws filled one volume containing 555 pages.

In 1878 the Session Laws filled one volume containing 506 pages.

In 1879 the Session Laws filled one volume containing 619 pages.

The decrease in the bulk of the Session Laws since 1873 is chiefly the result of the adverse reports in 1874.

REPEALING STATUTES BY IMPLICATION.

The Saxton Commission in its recent report recommended the abolition of the power to repeal a statute by implication. From this recommendation there will be little or no dissent on the part of the bench or bar of the State. That this power should have existed and been exercised to the present time is a marvel. Much labor has been performed by courts and members of the legal profession, and considerable sums of money expended by litigants in ascertaining whether certain laws are in force or whether they have been repealed. It was an unnecessary expenditure of time and money. Hereafter no law should be repealed by implication.

The repealing statute should specify the chapter or the portion thereof which is to be repealed and declare therein that it is repealed. And any law not so specified therein should be deemed to be in force and treated accordingly by the courts. This would be a reform of no ordinary importance.

CONTESTED SEATS IN THE LEGISLATURE.

Our best citizens have long labored for such laws as will enable every voter to cast his vote for whom he pleases, and to have his vote counted as cast. To that end laws have been passed surrounding the ballot box with every possible safeguard, and affording the voter every possible protection from intimidation

and improper influence in exercising that right, and providing severe punishment for every person guilty of bribery or fraud.

As yet no plan has been devised which has fully accomplished the desired purpose, but considerable progress has of late been made in that direction.

Following the election there will be contested seats in the Legislature. At present each house is the judge of the election of its members.

It is well known that these contests are not always decided in accordance with justice; that senators and members under partisan bias and political influence occasionally strain a point to such an extent that the seat is not always awarded to the rightful claimant.

It is as important for the best interests of the people that the rightful claimant should be awarded the seat as that every voter should vote for whom he pleases, and that his vote should be counted as cast.

Can some better mode be devised for deciding these contests more justly?

It has been suggested that a court should be created for that purpose; its members selected by the Governor from the judges who have been retired from the Court of Appeals or from the Supreme Court on account of age, and in case the number of retired judges should be insufficient, then from other ex-judges of these courts.

A court thus constituted would be free from political influence, from ambition, and it would have no other motive than to hold the scales of justice even.

HASTY, IMPROPER AND VICIOUS LEGISLATION.

A recommendation of the Commission appointed by Governor Morton under the Act of 1895, of which

Lieutenant-Governor Saxton was chairman, relative to legislative business and methods, when it becomes a law, will to a great extent, check hasty, improper and vicious legislation.

A majority of that Commission are members of this Association.

This recommendation requires every private bill, every local bill and every bill relating to municipalities to be filed with the Secretary of State thirty days before its introduction, accompanied with a petition stating the objects of the bill. Before its introduction proof must be made that a statement containing a synopsis of the bill has been published or personally served as therein required with a view of giving notice to every adverse interest. It also permits the filing of an answer to the petition stating the objection to the provisions of the bill and after payment of printing expenses the answer is allowed to accompany the bill through all its legislative stages. This will give publicity to the proposed legislation, and publicity is the deadly foe of hasty, improper and vicious legislation.

Section 15, article 3, of the Constitution, is also a check on this sort of legislation. It declares that "no bill shall be passed or become a law unless it shall have been printed and upon the desk of the members, in its final form, at least three calendar legislative days prior to its final passage." This provision does not apply to a bill where the governor has certified to the necessity of its immediate passage. It further declares that "upon the last reading of a bill no amendment thereof shall be allowed." This is one of the most important provisions of the Constitution in furtherance of honest legislation.

Prior to the adoption of the present Constitution an unwritten bill was occasionally passed through both houses and sent to the executive chamber the same day. Frauds, it is believed, have been perpetrated on more than one occasion in the passage of an unwritten bill by the insertion of amendments unauthorized by the Legislature and unknown to the clerk of either house, somewhere on its way to the executive chamber. This constitutional provision puts an end to evils of that character. Through the influence of the association every code amendment passed by recent Legislatures became a law several months after its passage. This has prevented much mischief in that class of legislation.

A lawyer in the course of his practice finds that an amendment to the Code will enable him to do in some cases what he could not do otherwise, and perhaps ought not to do, but to accomplish his purpose it must be passed at once and take effect immediately; but when he finds that this cannot be done, he either does not present his bill, or if he does, the Legislature will have ample time for consideration on its merits.

Laws are passed at one session and amended or repealed at the same or next session. This ought not to be. Such legislation must necessarily have but little or no consideration.

Laws should have a permanent character and no law should be amended unless there is a pressing necessity for it. The Saxton Commission also recommended that the committee to which a local or private bill is referred, shall report thereon with the reasons for its action, within a certain number of days after its reference. This is an excellent recommendation.

It would prevent strangulation to which bills are too frequently subjected. The friends of a measure are entitled, as a matter of right, to the judgment of the whole body upon the action of its committee.

CODE REVISION.

The opinion has long prevailed in the association that the Code of Civil Procedure could and should be revised, condensed and simplified. In 1895, chiefly through its efforts, a law was passed authorizing the appointment of a commission to "examine the Code of Procedure of this State and the Codes of Procedure and practice acts in force in other States and countries, and the rules of court adopted in connection therewith, and report thereon to the next Legislature, in what respects the Civil Procedure in the courts of this State can be revised, condensed and simplified."

In 1889 a commission was appointed to revise certain statutes which is still in existence. It is of the utmost importance that the revision of the statutes and the ascertainment in what respects the civil procedure in the courts of this State could be revised, condensed and simplified, should be done at the earliest possible moment. The revisors of the statutes in question are able lawyers and well fitted to revise the statutes and the Code. Instead of a separate commission, the duty required by the Act of 1895 was devolved upon the commissioners of 1889, who had then and still have much work to do. This was done, as it is understood, to make both revisions harmonious, but will not the result necessarily be delay in the completion of both? The question arises; what shall be the character of the revision? Shall it be a radical

revision? If not, to what extent shall it be revised? Shall the portions that have been construed by the court remain intact? Much light will be thrown on this subject by the discussion that will take place here to-day.

Other reforms have been made through the efforts of the association. Days of grace have been abolished. The office of justice of sessions and that of coroner have ceased to be constitutional ones. A bill was introduced in the last Legislature which devolved the duties heretofore performed by coroners upon other officials, but failed to become a law. It will be presented to the present Legislature. Other reforms of more or less importance have been accomplished through the work of the association.

The association is in a prosperous condition. Within the last year its membership has largely increased. It has in its treasury \$3,222.04. The good work it has done in preventing bad legislation and in effecting reforms will more fully appear from the report of the committee on law reform.

The president takes this occasion on his retirement from the presidency of the association, to tender his warmest thanks to its officers and members for the cordial support they have given, and the kindness and respect they have shown him in the discharge of his official duties.

Mr. E. A. Bedell: I move that the president appoint a committee on nominations, one from each district. I make the motion at this time in order to give the committee proper time to deliberate. (Carried.)

The President: The first business in order will be the nominations for membership.

Mr. Whittaker: I nominate Mr. Amasa J. Parker, of Albany.

Mr. Hessberg: I nominate Mr. Fred. C. Ham.

The following were received:

By Mr. W. H. Robertson: Henry R. Barrett, Katonah; Harrison T. Slosson, Mount Kisco; E. N. P. Squires, White Plains; Charles L. Horton, White Plains; Stephen N. Thayer, Yonkers; David O. Williams, Mount Vernon; D. Walter Brown, New York; I. E. Ludden, New York.

By Spencer C. Doty: Lyman W. Reddington, New York.

By Mr. A. V. W. Van Vechten: Francis E. Laimbeer, New York; Theodore F. Lozier, New York.

By Mr. E. T. Lovatt: George C. Andrews, Tarrytown.

By W. C. Mills: George W. Eastman, Roslyn; William W. Gillen, Jamaica; William D. Brinnier, Kingston; Nicholas M. Banker, Gloversville; Clarence W. Smith, Johnstown.

By Mr. A. H. Sewell: Eugene H. Harford, Walton.

By Mr. A. B. Steele: J. R. Devendorf, Herkimer; Hadley Jones, Little Falls.

By Mr. F. E. Wadhams: William McM. Speer, Albany.

By Mr. E. L. Adams: James M. E. O'Grady, Rochester; William W. Armstrong, Rochester.

By Mr. Roswell W. Keane: Samuel J. Cohen.

By Mr. Henry W. Jessup: Reuben Leslie Maynard, New York.

Mr. John Brooks Leavitt: I move that the nominations of all persons be referred to the committee. No possible objection ought to be made to any of the gentlemen nominated, but I think this is the proper time to make the suggestion, because someone might be nominated whom we don't want. I move that all nominations be referred to the committee on admissions. (Carried.)

The president: I will appoint as committee on nominations the following:

- 1st district, Gilbert R. Hawes.
- 2d district, E. T. Lovatt.
- 3d district, E. A. Bedell.
- 4th district, Granville R. Ingalls.
- 5th district, A. B. Steele.
- 6th district, Frederick R. Gilbert.
- 7th district, Charles McLouth.
- 8th district, Charles B. Lincoln.

The treasurer's report, duly audited, was read by Hon. Albert Hessberg, treasurer.

ALBANY, N. Y., January 20, 1896.

To the New York State Bar Association:

The Treasurer respectfully makes the following report:

Balance on hand at date of last report.....	\$3, 857 93
Received for dues since last report.....	3, 060 10
Interest on funds deposited in the National Savings Bank of Albany.....	78 46
Total.....	<u>\$6, 996 49</u>
Disbursements during year.....	<u>3, 754 45</u>
Balance on hand of this date.....	<u><u>\$3, 242 04</u></u>

Balance on hand at date of last report.....	\$3, 857 93
Balance on hand at this date.....	3, 242 04
Decrease in the funds during the year.....	\$615 89

Funds.

Amount on deposit in The Park Bank.....	\$1, 221 60
Deposit in National Savings Bank of Albany.....	2, 020 44
Total.....	\$3, 242 04

Membership.

Number of members who paid dues for 1895.....	576
Number of members who paid dues in arrears...	7
Number of life members.....	60
Increase in life members.....	2
Number of resignations.....	5
Deaths reported to Treasurer.....	9
Number of persons who failed to pay their annual dues.....	114

Respectfully submitted,

ALBERT HESSBERG,

Treasurer.

Mr. Wm. D. Veeder: I offer the following resolution:

“Resolved, That a committee of five be appointed by the president to consider and report upon the question of arbitration of differences between this country and England which has been so ably presented and urged by our distinguished citizen, Hon. Chauncey M. Depew.”

I do not consider it necessary on my part to present any views upon the question of the adoption of this

resolution. It seems to me that the importance of it is evident to every member of this association.

Mr. Lovett: I second the resolution. (Carried.)

Mr. Albert Hessberg: I present the following:

"We deem it a disgrace to our country that the courts of the United States should be without stenographers and sufficient court attendants, and that through lack of funds they should be continually compelled to close their doors.

"Resolved, That we earnestly request the representatives in Congress from this State, to do all in their power to secure the passage of the bill introduced by Representative Sherman for the relief of the Federal Courts."

I move its adoption. (Carried.)

Mr. J. Brooks Leavitt: I offer the following resolution:

"Whereas, It is important to the members of the legal profession in this State that they should be able to follow proposed legislation during each session of the Legislature; and,

"Whereas, The volume and the number of bills introduced are so great each year that members of the bar need all possible assistance in their professional efforts to inform themselves of the introduction and the progress of bills affecting their profession, or the interests of their clients,

"Resolved, That a committee of three be appointed to urge upon the Legislature that the rule as to the printing of bills which is usually expressed in a front note upon each bill in the following words "Matter underscored is new," "Matter in brackets is old law

to be omitted" be followed in the printing of every bill which seeks to amend any statute."

We all know how difficult it is to determine the exact amendment of any bill affecting the statutes. A word may be changed, a single word in a long sentence may be changed, and it is only by a careful comparison that the change can be detected. They have a rule where a word is changed that word is italicized and where a sentence is amended that sentence is underscored. But that rule is not followed. It is only honored by its breach and not in its observance. My object in urging the appointment of a committee is to urge upon the Legislature the convenience to lawyers if that rule was carried out (Carried.)

Mr. A. H. Sawyer: I offer the following:

"Resolved, That a committee of three be appointed by the president, to communicate with the judges of the Court of Appeals, and with such other persons as may be proper and desirable, and take such measures as may be necessary to restore to the members of the bar the room formerly occupied by them in the Capitol near the court room of the Court of Appeals." (Carried.)

The president appointed the following committee: A. H. Sawyer, E. A. Bedell, and S. P. Nash.

The president: We have with us ex-Senator John J. Linson, who will read a paper entitled "Some needed improvements in our statutes and in statute making."

Mr. Linson: Gentlemen.—I have christened the screed, which at the request of my honored friend, the president of the association, I am about to inflict

upon you "Some needed improvements in our statutes and in statute making." I have not ventured to use the word "reform" because there are so many different kinds of reformers, genuine and spurious, that if a man assumes to be one of them, he is in danger of being lost in the mob. There is nothing original in this paper, unless it may possibly be a combination of ideas that it contains, except what I had to say on the subject of Code revision, which has not been said with the intent of forestalling what anybody else has to say, or criticize what anybody else has already said, but it seems to be necessary to the philosophical and rational system of statute making which is the only excuse for the paper which I have prepared.

SOME NEEDED IMPROVEMENTS IN OUR STATUTES AND IN STATUTE MAKING, BY
HON. JOHN J. LINSON.

In the attempt to bring order out of the chaotic condition of the statutory law of the State, the first necessity is the completion of the general laws. This work, begun in 1889, has progressed with varying annual degrees of rapidity until about three-fifths of the number of chapters which the plan includes have become law. Most of the others have been drafted, and several are ready for enactment.

Those which are upon the statute books are:

- Chap. I. The Statutory Construction Law.
- II. The State Law.
- V. The Indian Law.
- VI. The Election Law.
- VII. The Public Officers' Law.

- Chap. VIII. The Legislative Law.
- IX. The Executive Law.
- XI. The Public Lands Law.
- XII. The Canal Law (by error numbered 13).
- XIII. The Salt Springs Law.
- XIV. The Public Buildings Law.
- XVI. The Military Code.
- XVII. The General Municipal Law.
- XVIII. The County Law.
- XIX. The Highway Law.
- XX. The Town Law.
- XXV. The Public Health Law.
- XXXI. The Fisheries, Game and Forest Law.
- XXXIII. The Agricultural Law.
- XXXV. The General Corporation Law.
- XXXVI. The Stock Corporation Law.
- XXXVII. The Banking Law.
- XXXVIII. The Railroad Law.
- XL. The Transportation Corporations Law.
- XLI. The Business Corporations Law.
- XLII. The Religious Corporations Law.
- XLIII. The Membership Corporations Law.
- XLV. The Joint Stock Associations Law.

There have also been re-written in the general manner of the revision the statutes relating to excise and public education. Chap. 401, L. 1892, known as the Excise Law, covers the ground of the XXIX the chapter of the revision; and chap. 378 of the same section, "The University Law," and chap. 556 of 1894, "The Consolidated School Law," supply the place of the proposed XXVI chapter, which was to have been entitled "The Education Law." These

only need to be formally numbered to take their position in the body of the work.

Eighteen chapters remain to be considered, of which ten have at one time or another, been reported to the Legislature, but have so far failed of enactment, and at least three others were at the time of the re-organization of the commission in January last ready to be reported. Of these eighteen, five have subjects connected directly with the working of the State government, viz:

- Chap. III. The Political Divisions Law.
- IV. The Enumeration Law.
- X. The State Finance Law.
- XV. The Prison Law.
- XXIII. The Civil Service Law.

Two contemplate general charters for municipal corporations, as follows:

- Chap. XXI. The Village Law.
- XXII. The City Law.

For the latter of which much material "should" be provided by the commissioners set at work by the Legislature last winter.

Three contain substantive law and prescribe the methods of conducting certain governmental functions pertaining both to the State and to its divisions, viz:

- Chap. XXIV. The Tax Law.
- XXVII. The Poor Law.
- XXVIII. The Insanity Law.

Three might be described as police measures, i. e.:

- Chap. XXX. The Navigation Law.
- XXXII. The Labor Law.
- XXXIV. The Domestic Commerce Law.

One, chapter XLIV, the Benevolent Orders Law, provides for a kind of quasi-corporations, not before taken care of in the corporation laws of the revision; and the remaining four have to do with certain social and property rights and obligations and are entitled respectively:

Chap. XLVI. The Real Property Law.

XLVII. The Personal Property Law.

XLVIII. The Wills Law.

XLIX. The Domestic Relations Law.

With the completion of this system the remnant of the Revised Statutes still in force will be repealed, and the way will be open for a systematic and homogeneous arrangement of the entire public statutes of the State.

The foregoing resume does not, of course, take into account any modification of detail made necessary by the new Constitution, determined on by the present commissioners and unannounced.

Before proceeding further, however, in this direction, a formidable barrier to progress must be surmounted, in the form of a great and important statute, the illogical arrangement and monstrous proportions of which have already attracted much attention from this association.

The profession has recently been favored with a most learned and valuable report from the commissioners appointed by the governor to "examine the Code of Procedure of this State, the Codes of Procedure and practice acts in force in other States and countries, and the rules of court adopted in connection therewith, and report thereon to the next Legislature, in what ~~respects~~ the Civil Procedure in the

courts of this State can be revised, condensed and simplified."

Conceding that the division of the Code therein recommended would be a considerable improvement, and desiring to withhold no word of praise nor to utter a syllable of captious criticism on the work of the commissioners it has seemed to the writer that a single further logical step would have led to a reconsideration of the proposed arrangement of the Revised Code and to a classification of the subject matters to be contained therein, at once thoroughly scientific and eminently practical.

The remedies in the courts of justice which are treated of in the Code of Civil Procedure are of two kinds, viz:

Civil actions, and

Special proceedings.

It would seem, therefore, a philosophical division of so much thereof as pertains properly to an attorney's practice, into two separate acts, which might be entitled respectively the Code of Procedure in Civil Actions and the Code of Procedure in Special Proceedings. A convenient short title in legislation for the former, is already prescribed by the Statutory Construction Law, where it is styled the Civil Code. The other would be mentioned with so little comparative frequency, that the length of name would not prove objectionable, but it might be called the Special Proceedings Code.

The Special Proceedings Code would be a substitute for the following named divisions of the present Code, viz:

Chapter XII, Title V, secs. 1356-1361, which treat of appeals in such proceedings.

Chapter XVI, Title II, secs. 1991-2148, habeas corpus, certiorari, mandamus, prohibition and *ad quod damnum*.

Chapter XVII, secs. 2149-2471 a., which cover such proceedings other than those instituted by State writ, and include supplementary proceedings.

Chapter XVIII, secs. 2472-2860, of surrogate's courts and the practice therein.

Chapter XXIII, secs. 3357-3397, the Condemnation Law, and proceedings for the sale of corporate real property.

In all, 918 sections of the Code of Civil Procedure would be taken to form the bulk of the new statute. To these should be added new chapters covering the practice of insolvent assignments, mechanics' lien cases, proceedings arising under the drainage acts, the law of receivers and, perhaps, some others.

Five hundred and thirty-four more sections have no place in a practice act at all. Reference is made to sections 1-361 and 1027-1199, which affect the organization of courts and prescribe the duties of sheriffs' clerks, jurors, and stenographers. The subject matter of these sections should be transferred to a chapter of the General Laws to be called the Judiciary Law or by some other appropriate name.

Less than 2,000, to be exact, 1,946 sections of the present Code remain to form the ground work of the new Code of Procedure in Civil Actions. It is safe to say that by judicious pruning and careful generalizations these can be reduced one-fourth, leaving 1,500 as the maximum number of sections required to cover the whole ground of practice in ordinary cases arising in the civil courts.

Perhaps some part of Chapter IX, which treats of

evidence, witnesses and kindred subjects, would belong more properly in the proposed Judiciary Law. The distinction which should be kept in mind is this: everything which the practicing lawyer needs in his *vade mecum* prescribing what he may or must do from the time of the commencement of his action to its final termination, should have a place in the Code. Everything else should be excluded.

That this division of the Code is scientific, implies that it is advantageous. The respective subjects of the three proposed statutes are independent of each other as far as it is possible for matters relating to the same courts to be independent. The whole of the written law to which reference would have to be made in a given case would be found between a single pair of covers. It would not be necessary to turn from one book to another in order to exhaust the particular action or proceeding under investigation. The lawyer who was pursuing his remedy by mandamus, or taking proceedings for the sale of the real estate of a deceased person would have no more use for the Civil than for the Criminal Code. While he was conducting a civil action the Special Proceedings Code could stand upon the shelf. We would thus avoid bulk without encountering the antithetic danger of confusion.

The scientific and logical division of the Code thus begun should be carried through the revision. The limits of this paper forbid an extended analysis of any plan in detail. The Code of Procedure in civil actions should be chronological in its division; the several steps in an action to follow one another as in actual practice. Special proceedings are largely independent of one another and each, other than proced-

ing in Surrogate's Courts would require separate treatment.

But even here there could be much improvement in clearness and arrangement over the present code. The diffuseness of the present statute should be avoided. The attempt to embody therein the substance of the decisions of the courts as to the meaning of the first code was a mistake, which should not be repeated, but in great measure this work should be undone. Many particulars should be relegated to the rules of practice where they belong. It may be assumed that it would be difficult to get special legislation under the guise of amendments to general rules through a convention of judges. As examples of undesirable methods of codification title three of chapter VII, Attachments, and article second, title one of chapter XIV, Partition, will serve as well as any other. Care should be taken to avoid such errors as were committed in title two of chapter XVII, of summary proceedings to recover real property, the sections of which relating to forcible entry and detainer are grossly unconstitutional.

The writer has no pet theory as to the personnel of the revisers. The labors of the commissioners of statutory revision are already burdensome. The necessity of a beginning and of a continuance to completion is urgent. But that necessity is not superior to that of finishing the General Laws. With these laws should be consolidated, in their appropriate places, the independent general statutes passed since 1889, not already revised, and thus the entire body of general statute law of the State will be contained in those laws and the Codes. Taking into consideration the great mass of other work which the Legislature

has devolved on the commission we cannot expect that the full number of chapters of the General Laws will become statutes in less than three years. Every day taken from this work and given to consideration of Code revision, postpones the completion of the other and equally important work for a corresponding period.

It is desirable that the work when completed should have the endorsement of the judiciary to render certain its enactment. Of course, the judges would not be expected to take an active part in the labor of revision. Their present duties emphatically forbid. Nor is it by any means certain that eminence upon the bench is any valuable guaranty of proficiency in statute drafting. Some of the late general rules of practice, considered as examples of perspicuity were lamentable failures. The tendency to conservatism of statement, the care to decide only the precise case before the court, admirable in a judicial opinion, lead to prolixity and complexity when carried into codification.

It is not too soon to insist that hereafter new statutes of public nature shall be enacted as amendments of the Codes or the General Laws and not independently. Otherwise, the construction of a new labyrinth like that which had been building from 1830 to 1890 will be entered upon and the bones of pilgrims seeking the law will begin to accumulate in its mazes.

For much of the complexity of our statute law, the system of repeal by implication is responsible. No phrase has more to answer for than that crass compound of indolence and ignorance. "All acts and parts of acts inconsistent with this act are hereby repealed." If any such acts exist they should be

pointed out; if not, the sentence quoted is superfluous. The necessity for construction other than such construction as an educated man would bestow on an English sentence should be avoided if possible. When it comes to construing two sentences in conflict, both of which must stand if they can, the plight of the courts, let alone that of the ordinary citizen, who must know the law at his peril, constitutes a blot upon our civilization.

Illustrations of the difficulties and even the dangers attendant on the present system as it concerns purely administrative functions of public officers are numerous in the statutes repealed by the Canal Law, and by the Public Lands Law, and still exist in those statutes for which the draft of the State Finance Law, heretofore reported to the Legislature, is proposed as a substitute. In many of the matters covered by these statutes, the comptroller's office and the canal authorities, by reason of irreconcilable requirements of law, had been compelled to adopt a sort of *cy pres* interpretation under which they had followed as nearly as they could, the apparent legislative intent, and which had become traditional in their offices. Purely executive in theory, these authorities had been compelled to exercise both legislative and judicial functions, codifying and construing the statutes under which they acted.

Again, such a system as is contemplated will place before the legislator a reference to the statute which it is proposed to supersede. Changes, radical in their nature, are now frequent because of the inability of anyone in the hurry and bustle of the session to know precisely the effect of bills introduced. Three thousand bills on the files cannot be read, much

less digested by the most industrious and well informed.

By far, however, the worst and most scandalous feature of our unphilosophical methods of legislation is the custom of concealing bills, conceived only to affect individual or local cases and introduced solely in private interests, under the form of amendments to general statutes. By this the symmetry of the laws amended is destroyed, fluctuations and caprice are substituted for certainty and stability, construction and precedent are unsettled, and the citizen is often deprived of his rights without notice, without an opportunity to be heard and without due process of law. The Code of Civil Procedure has been a favorite object of attack from persons and corporations desirous of promoting this kind of legislation. Ingeniously drafted bills, steering clear of constitutional inhibitions, are passed for effect on pending litigation and the entities of code procedure are disarranged to annihilation for the benefit of a suitor or the discomfiture of his adversary. Special legislation has at least this merit: Every one may know what the Legislature is doing, and the direct effect of a particular statute is limited in area.

It seems not too much to ask, that competent counsel should be provided to advise the Legislature as to the form, constitutionality and accuracy of expression of bills, before they have reached the stage of third reading. To wait until that period has arrived, is in effect to substitute the executive veto for the care which is due to the people from the legislative branch of the government. By such counsel, too, the hidden objects of bills might be detected, and objectionable

amendments to codes and general laws arrested in their career.

Where any department of the State government is charged with the care of particular interests, the opinion in writing of the head thereof as to the necessity for proposed legislation and its probable effect should also be taken. There is no such department to deal with the Codes. As to them, this association might well by a standing committee perform similar duties, thus assuming a most useful and honorable function.

The problem presented by local and special bills remains to be considered. It is unreasonable and impracticable to establish a Procrustean measure for every community and every interest. We have seen that the attempt to do so has destroyed the symmetry of much of the general legislation of the State and led to countless causeless changes and fluctuations in statutes where certainty and stability are much to be desired. But this Scylla, like every other, has its Charybdis. The evils of special legislation have been too often exposed and denounced to require extended analysis here. And, constitutions and revisions notwithstanding, this often vicious exercise of legislative power will not down. There was enacted into law at the session of 1895, six hundred and twenty-one bills, the beneficiaries of which were solely either municipalities, private corporations or individuals. An exact classification of these is not entirely practicable, as some have reference to more than one object of legislative solicitude, but as nearly as may be 297 had reference to the affairs of cities; 76 to villages; 36 to towns, 34 to counties; and 13 to school districts, in all to municipal corporations, 456. Sixty-one were for the benefit of membership corporations; 30 for

moneyed or stock corporations; 15 for religious; 3 for educational corporations and 56 for individuals; in all for others than municipalities, 165.

As the highest chapter number for the year is 1042, it follows that but 421 became laws in which the whole commonwealth was directly interested; and how many of these were mere covers for special interests will never be ascertained.

It is impracticable to attain the perfection of the English system of private legislation at once. Parliament is elected for a period of seven years, and, even if dissolved sooner, its membership remains much the same for a long period. But there are features of the system that can be advantageously transplanted. One difficulty with which our senators and members of assembly are confronted is the impossibility of finding out why the proposed measure is asked for or opposed. If a petition and counter-statement or answer, and, if necessary, a reply, after the fashion of pleadings, stating the facts, were required from the supporters and the opponents of special bills, the same could be printed to accompany the bills on the files, and an issue would be thus presented for trial. Of course, this pre-supposes some kind of public notice to persons likely to be interested, for which purpose publication of intention generally in one or more newspapers would usually be sufficient.

The issues thus framed could be tried by committee which would possess power to take evidence and to send for persons and papers. Hearings before committees of the Legislature now are largely farcical, and, where matters of real importance are involved, consist principally of windy harangues, in which the facts as stated by one side are promptly and emphati-

cally denied by the other. The committees have no way of ascertaining the truth, which can compare in exactness with the method so long established by the courts of justice, consisting of the examination and cross-examination of competent witnesses, the approximate correctness of the results obtained which has been certified by the experience of ages.

In order to prevent smothering, committees should report on all private and local bills within, say, thirty days from the date of reference. The report should be more than one of formal advice to the house either favorable or adverse and should resemble the findings of a court or referee, giving the reasons for the conclusion reached. In short the disposition of matters involving purely private interests in the Legislature should be assimilated as nearly as possible to the methods by which the rights of suitors are determined in the courts. There are many reasons why this result cannot be fully attained, but the nearer that we can arrive at the system where the parliamentary bar has driven out the lobby, and the impartiality and dignity of the bench, supplanted the unsatisfactory deliberations of legislative committees the greater will be the reform. In Parliament, the member of a committee having such matters in charge is "no" more liable to approach by a party interested, than is a judge of a court of record subject to private importunities from a plaintiff or defendant.

It goes without saying that private and local bills, before their third reading, should be subject to the same scrutiny and revision that we have seen should be applied to those of a public character.

To recapitulate: At the foundation of the construction of a scientific statutory system for our State lies

the necessity for the completion of the General Laws; an accompanying and almost equally important requisite is the reconstruction of the Code of Civil Procedure; with them or with one of the other Codes should be consolidated all existing independent general statutes, and new public acts should be amendatory in form; all legislation, whether public or private, should be submitted in the house in which it originates to the scrutiny of a committee on revision, which should have the assistance of competent counsel; some agency of the State government should be charged with the duty of detecting in bills apparently general in their nature, the local or private main-spring of action, and special legislation when asked for should be obliged to demonstrate its necessity by the rules of evidence and decision obtaining in courts of justice. Here is nothing impracticable, speculative or visionary. Nor is there any advocacy of anything complex. On the contrary every step is in the direction of simplicity and order. If the statutes of our State can be so arranged that those therein contained on any given subject can be found with reasonable exertion; if this result once attained shall thereafter be kept in view by the Legislature and its advisers; if private legislation shall be kept in its place, and under its own proper name and compelled to show cause why it should exist at all, future generations of lawyers and laymen alike, will rise up and call blessed those who assisted in the attainment of such results.

The President : We have with us Mr. Henry Wynans Jessup, A. M., LL. D., of New York, who will read a paper.

ARE DIRECTORS OF CORPORATIONS HELD TO A SUFFICIENT ACCOUNTABILITY?

A great body of judicial decisions has grown up in England bearing on the frauds of corporate promoters, agents and directors. In this country the cases involving breaches of trust by the managers of corporations are far more numerous than those involving promoters' frauds, and the complaint as to the difficulty and delay incident to stockholders' suits for relief against breaches of trust by directors has not been confined to the stockholding class, nor to attorneys' offices, but is freely expressed in text-books of acknowledged authority.

Thus, a writer of considerable prominence goes so far as to say: "In these latter days the robbery and "spoliation of corporations and stockholders by the "corporate directors and managers have been systematized into well known methods of proceeding, and "the carrying out of such plans has become a profession and an accomplishment. The skill, audacity, "experience and talent of the highest order of administrative ability have reduced to a certainty the "methods of diverting the profits, capital and even "the existence of the corporation itself to the enrichment of the corporate managers, and their co-conspirators — corporations become insolvent, and stockholders lose their investment, while individuals "become millionaires. Illegitimate gains are secured "and enormous fortunes are amassed by the few at "the expense of the defrauded, but generally help-

"less, stockholders." (Cook on Stockholders, 2d ed., section 644.

This is a stern and scathing arraignment, and commands attention not merely of itself but because the interests it represents as jeopardized are (pecuniarily) so vast. It would be no exaggeration to assert that the par valuation of certificates held in this country of the capital stock of corporations of every description amounts to thousands of millions of dollars.

And if the statement quoted be an accurate one, it must be remembered that still greater financial interests are concerned because of the enormous bonded indebtedness of many of our great corporations. Bondholders do not always emerge unharmed from the deep sea of receiverships, and their interest, as well as that of stockholders, in the question about to be discussed may well be said to be vital.

Now, while indisposed to admit that the picture drawn by Mr. Cook is in all respects true, it is apparently justified by the history of many American corporations, whose stockholders hold gorgeously engraved certificates, as valueless as confederate paper dollars, and whose directors have amassed fortunes not represented in that currency. And the two conditions, poverty for the shareholder, wealth for the director, seem to be traceable to a common period of time — the brief checkered life of the so-and-so mining, or manufacturing, or railway company.

This is certainly true enough to warrant some examination of our existing laws and rules of law relating to the accountability of such directors. For it is a serious thing to say that a man (let alone a considerable class of men), is without an adequate remedy at law or in equity for any admitted kind of wrongful

acts — directly or by necessary consequence injurious to his property.

I preface my discussion with the remark that I believe the fault, if any, lies, not in the disposition of the courts, nor in the limited remedies provided against breaches of trust in this class of cases, but, back of all in the reckless and unguarded modes in which legislatures representing the people permit corporations of almost all kinds to be created and set in full and vigorous operation, with managers whose accountability is vaguely defined or largely misunderstood.

Any one who has wrestled much with the reported decisions in such cases is aware that the State and Federal courts have at different times, and under varying circumstances, held directors of corporations to be now agents and again trustees, and have defined their liability accordingly.

Nor are they to be criticized for so doing. It is the duty of a court of equity to determine a liability sought to be enforced, having full regard to all the facts and circumstances out of which it is claimed to have grown. What we say, however, is that whether because of, or in spite of, this, the result has been practically that nine guilty men have escaped, while nine times nine innocent men have suffered. So that it is now not far from the truth to assert that stockholders who sue to enforce a liability on the part of corporate trustees to their *cestuis que trustent* have to confront three deterrent obstacles. The first is that of expense, for it is not to be overlooked that while the complainant is, in contemplation of law, fighting on behalf of the corporation, to the benefit of which the proceeds of a successful litigation will inure, he

is fighting at his own charges against those who have their hands deep in the corporate strong box, and who may dissipate the very fund he is endeavoring to save, in the defense of the litigation he has instituted. And the second deterrent is the delay to which such litigations seem peculiarly subjected, by means of which, except in those rare cases where the complainant has been fortunate enough to gain information sufficient to secure injunctive relief *pendente lite* when the shell is finally awarded, the oyster has disappeared.

The third and chief deterrent is the difficulty of successfully litigating charges of fraud and other breaches of trust. And this difficulty is a real one. For the complaining stockholder is often quite in the dark as to the actual means adopted to accomplish the, to him, ruinous end. Guilty directors generally act secretly and systematically; they often complete the fraud before the aggrieved stockholder is aware of its inception; they sometimes act, backed up by complaisant stock majorities, who share the plunder; and frequently, and shame to say it, the scheme to defraud the stockholders is conceived by, and carried out under, the supervision of counsel, who prostitute their talents in devising disingenuous methods of circumventing or evading the law.

It is quite often true that the decision of the court in cases of this description is in effect, if not in substance, "not proven," and the guilty go unpunished.

Can those be blamed who trace a relation of cause and effect between the remedial law and the fruits of litigation?

The General Corporation Law of this State defines "directors," when used in relation to corporations, as

including "trustees or other persons by whatever name known, duly appointed or designated to manage the affairs of the corporation." The same act, together with the Penal Code, defines with considerable rigor the liability of such directors to the people to corporate creditors and to the stockholders—so that it would seem that so far as the Legislature could do so it has safeguarded the stockholder, and, therefore, that if his rights are unredressed, the fault must lie in the courts. But this I do not believe, and so I venture the suggestion that the trouble is due to a lack of differentiation or classification of directors in our statute law. Let me illustrate my meaning. The advertising columns of our daily papers frequently contain lists of the boards of direction of banks, trust companies and other corporations, which include names of men whose financial standing, known experience and conceded business shrewdness and ability are calculated to invite popular confidence in the corporation they are supposed to manage.

Some of these names appear in the boards of several—perhaps many—such companies. And yet every one knows that these men are carrying on individual enterprises, requiring and to which they devote their chief energies and most of their time. It is probably equally well known that their relation to the bank or company in question is nominal, or at most advisory.

The real managers of the concern consult them on broad questions of business policy in regard to which their advice is invaluable, but no one expects them to give their attention to matters of administrative detail; and it is highly probable that were it expected

or required their names and services would not be available.

These business experts, as we may call them, come within the statutory definition of directors.

On the other hand, there are a great number of corporations, representing vast sums in invested capital, whose managers or trustees come also under this definition, but sustain to the body corporate a far more intimate, and, it may be added, responsible relation. They assume, and are intended to assume, the entire control and management of the company's business. They represent, and often hold, the majority of the capital stock. They are autocrats for the time being, and can make or mar the fortunes of the stockholders. To the business of the company they devote all their time and energies and attend to its every detail.

These two extremes represent two radically different kinds of trustees, between whom our General Corporation Law draws no distinction, but between which two extremes, on a sort of sliding scale, may be classed every kind of director of corporations.

To the mind of even a layman it is apparent that the two kinds of directors we have described are not in equity to be held to an equal degree of accountability for the management of the corporate affairs.

In Continental Europe these two classes of corporate directors are differentiated, as to their functions as well as their accountability. A brief sketch of this feature of corporation law on the continent will, it is believed, prove highly suggestive and instructive, and possibly present a means capable of embodiment into our own system, whereby greater certainty can

be assured of bringing to book all corporate trustees guilty of breaches of trust.

What we call a stock corporation is in France styled "société anonyme," or an anonymous company, or society. Such companies organize with two classes of directors, the one actual managers, the other mere mandataries, with specified and limited functions. The countries in which the statutes require or permit the designation of two such sets of directors are Belgium, France, Germany, Holland and Switzerland. The active managing directors are variously styled Administrateurs, Directeurs, Vorstand or Board of Administrators. The other directors are styled Commissaires, Aufsichtsrath, Commissarissen, Trustees or Auditors, and they supervise the management and in some cases control its policy.

Take the German law for instance. The supervisors must be shareholders — at least three in number. The directors need not be shareholders nor more than one in number. No director can be a supervisor at the same time — and while the director represents and manages the company, and can bind it to third parties even though under the company's constitution his acts be *ultra vires*, the board of supervisors control the directors. That is, they can, at any time, require the managers to lay before them the details of any contemplated policy or undertaking. They have at all times access to and right to examine all the books and assets of the concern.

To carry into effect any veto or disapproval of the management they may at any time call a general meeting of stockholders.

Furthermore, a full statement showing the financial and business status and condition of the company

must be made annually by the directors to the supervisors in time, so that together with a report on the managers' report by the supervisors, it may be open to any shareholder's inspection two weeks before the annual meeting, at which both reports are formally presented.

This sketch, though brief, gives a sufficient outline of that feature of Continental Corporation Law to which reference is made — with a view to the effect of its incorporation into our system.

Could the rights of stockholders (for it is to this phase of the subject I confine my inquiry) be better safeguarded, and their remedies against breaches of trust on the part of corporate trustees be made more sure and efficient, by differentiating directors as to their activity of function, and requiring or permitting in all stock corporations two classes of directors?

I propose, in pursuance of this inquiry, to examine:

I. To what degree of accountability to stockholders are directors now held?

II. In what respect are stockholders insufficiently protected?

III. Would the continental scheme, or some scheme modeled thereon to meet our conditions, remedy existing defects?

IV. What amendments to our statutes would such a scheme require?

I.

TO WHAT DEGREE OF ACCOUNTABILITY TO STOCKHOLDERS ARE DIRECTORS NOW HELD?

A stockholder, as such, is not considered the *cestui que trust* of the directors; but the corporation is deemed to be such; and if the stockholder seeks to

proceed in equity against the directors he does so in contemplation of law to protect the interests of the corporation, and for the benefit of all stockholders and creditors.

It is a general and well accepted proposition that directors of a corporation may be called to account for breaches of trust. But the working of this rule is somewhat qualified by the following requirements in cases where it is sought to hold directors personally liable for malfeasance :

First, The complaining stockholder must offer affirmative proof of the misconduct charged, going to establish fraud in fact; that is, something more than proof of mere constructive frauds or breaches of trust. The burden of proof as to fraud, conspiracy or neglect is on the stockholder, and the sources of information are almost wholly within the accused directors' control.

Second, A condition precedent to such a stockholder's action is the refusal or neglect of the corporation to demand redress. Ordinarily the complaining stockholder is a minority stockholder, and sues a hostile board — backed, perhaps, by a majority of the stockholders — circumstances making possible delays and hindrances dangerous to the stockholder's rights if fraud is actually being wrought, and for this reason that it has been laid down by no less a tribunal than the Supreme Court of the United States that such a litigant must satisfy the court that he has exhausted all the means within his reach to obtain, within the corporation itself, the redress of his grievances, before he can be permitted to institute and conduct a litigation which usually belongs to the corporation. He must make an earnest, not a simulated effort, with

the managing body to induce remedial action on their part. If time permits, or has permitted, he must show, if he fails with the directors, that he has made an honest effort to obtain action by the stockholders as a body, or he must show that the case was one where such effort could not reasonably be required.

These two things, though inherently reasonable, often conspire to make the complaining stockholder's path a difficult, slow and costly one to tread. The most dangerous characteristic of "deals" by which shareholders are defrauded and impoverished is the rapidity with which they can be railroaded through—a rapidity which fails to characterize the remedial procedure.

Conceding these practical difficulties we nevertheless find the courts of equity ready to hold directors answerable for, or to enjoin them from

(a) *Ultra vires* action, or threatened action.

(b) Fraudulent action, or contemplated fraudulent action, whether among themselves or in connection with third parties, or other shareholders, if it threatens serious injury to the corporation or shareholders.

(c) Destructive action or action in the nature of waste of the corporate assets.

(d) Selfish action, or action intended for their own exclusive benefit at the expense of their *cestui que trustent*.

II.

IN WHAT RESPECTS, THEN, ARE STOCKHOLDERS INSUFFICIENTLY PROTECTED?

If the courts are so vigilant and remedies so complete in form, what ground is there for complaint?

Mere delay in litigation is not regarded as sufficient ground for drastic changes.

All remedial law has ever been leaden-footed, and such delays seem to be considered not so much a defect to be remedied, as something which the litigant must philosophically grin and bear. Is not some explanation, however, to be found in the practical working of our system? Corporations are theoretically managed by directors. As a matter of fact they are in most cases run by officers, appointed by the directors, who may or may not be directors. And courts of equity have been, to use the words of Sir George Jessel, very careful in administering the law of joint-stock companies "not to press too hard on honest directors, or to make them liable for constructive defaults, the only effect of which would be to deter all men of any property, and perhaps all men who had any character to lose from becoming directors of companies at all." In consequence many directors, knowing they will not be held answerable for the consequences of unwise or indiscreet management or errors of judgment, appoint officers to whom they leave practically everything in detail. The stockholders who elected the director as a trustee, supposedly capable and responsible, may discover that a fraud has been perpetrated, and that the person answerable to him in damages is not the substantial trustee but a wholly irresponsible officer, against

whom it is not worth his while to proceed. Now, on such a state of facts, the courts will probably, and perhaps justly, exonerate the director, who is not shown to have been guilty of actual fraud. But the effect upon the shareholder's pocket is the same whether it be *damnum atque* or *damnum absque injuria*. The *damnum* is the prominent idea in his mind.

III.

WOULD THE CONTINENTAL SCHEME OPERATE AS A REMEDY?

By this I mean to inquire whether the differentiation of our present Boards of Directors (embracing, as they do, persons with so different degrees of liability for their acts or neglects) into two distinct classes: one to be known as Trustees with a limited but definite responsibility; the other to be known as Directors with a distinctly defined and strict responsibility, would, in reality, be a step forward in the development of our corporation law. Arbitrarily conceding, for the sake of the argument, that such a differentiation is advisable, the following features invite attention:

- (a) Functions and liabilities of directors and trustees.
- (b) Qualifications of directors and trustees.

[Note.—The object of the differentiation must be kept clearly in mind, to wit, to have, first, an Advisory Board corresponding to many of our bank directorates with no liability more burdensome than their present technical liability, and, second, and at the same time to have a Managing Board known to be

such, membership in which would impose a definite responsibility proportioned to the trust confided to them.]

(a) As to the first question, it would involve provision of law that every domestic corporation in this State hereafter organized shall designate in its certificate of incorporation whether it will do business under Directors alone or under Directors and Trustees. Every corporation already organized may file a supplemental certificate at any time, setting forth that by a vote of the stockholders, at a meeting called for the purpose, it has been determined to elect a Board of Trustees in addition to its Directors. In the absence of the filing of such a certificate by a given day, all existing Directors to be deemed amenable to such laws as may hereafter be enacted applicable to Directors as opposed to Trustees of corporations.

The Board of Directors would be the active managers of the company, and would represent it in its dealings with the outside world, and to them the stockholders would confide the administration of the company, and they should be elected directly by and be held jointly and severally liable to every stockholder for willful nonfeasance, misfeasance or malfeasance resulting in damage to the corporate interests. By making the number of directors equal to the number of necessary officers of the company, and providing that every officer shall be a director — in other words, amalgamating them both under the name director — the function of director would be made more nearly that of the *administrateur* or *directeur* on the Continent, and if, as is usual, the officers of the company are salaried, it would make the

director a paid trustee, of whom a more rigid accountability could be demanded. The trustees should constitute a Board of Overseers, who also should be elected directly by the stockholders, and should serve without compensation, unless, by vote of the shareholders, provision is made for the payment to the members of this board, of the fee usually paid to directors or trustees who attend the monthly meetings of our banks and trust companies. At their meetings, which should be held monthly or otherwise, as the by-laws might direct, the condition of the corporation should be presented by sworn report of the directors, in addition to which the trustees should have power to make then or at any other time independent examination into the condition, assets and liabilities of the company. Their liability to the stockholders, as such Board of Trustees, should be limited to injury resulting to the stockholders from a willful neglect of such trustees to make such stated examination as the by-laws direct.

By giving to such boards a distinctive classification; by requiring of the trustees no more in the way of vigilance than is technically already expected and assumed; by openly declaring them mere mandataries and liable for a specific kind of gross negligence; by continuing them on the ten-dollar-gold-piece basis for their monthly services and attendance; their position is in effect raised from one of vague and indefinite liability to one of definite, but limited responsibility. On the other hand, by declaring the directors trustees of an active trust; by expecting of them the vigilance and fidelity of paid trustees, their position becomes such as to make it largely the stockholder's fault if untrustworthy men are made to fill it, and yet

at the same time requiring no more than every honest director now gives and assumes, or should be ready to give and assume.

(b) *Qualifications of directors and trustees.* This is a very important feature of any scheme of corporate law, because of the existence and the difficulty of dealing with the question of *dummy stockholding*. For example, A. acquires the majority stock of a railroad company, and elects a directorate of dummies — mere puppets — holding a qualifying share of stock apiece, who move, resolve, contract, make deals obedient to the wish of the man who owns them. Call them directors, agents, trustees — what you please — but their utter lack of responsibility remains the same. They are the bane of the existence of the minority stockholder, and are hateful in the sight of every honest director in the land. It should be possible to prevent by pains and penalties this puppet administration.

A step in the right direction could be made by requiring that every Director and Trustee should be made to qualify as a *bona fide* stockholder by filing, at the time of so qualifying, a sworn statement that he is the actual owner of the number of shares necessary to qualify him as such Director or Trustee in his own right. This, perhaps, seems of little moment in view of the fact that the number of shares necessary to qualify as director is now fixed at one. But it is well worth consideration, whether a raising of this standard of qualification to a greater pecuniary interest in the company whose interests are to be confided to the management of the Director or Trustee should not be provided for, particularly in the case of financial institutions. The French law provides for a de-

posit with the company, by every Director or Trustee, of his qualifying stock, which is non-transferable during his term of office. To require of Directors and Trustees such a slight pledge of integrity as this would probably not bear heavily on any. There should, of course, be no attempt to tie up the stock of directors, who at the same time may be large stockholders in the concern which they are managing, or to tie their hands in any way in regard to their private interests. For while, in rare cases, as where a majority stockholder is trying to "freeze out" his fellow stockholders, such persons can afford to overlook the injury which wrecking the company will work to their stock, in view of the far greater plunder a successful fraud will yield them, it is, nevertheless, more often, and in nearly all cases, true that the fact that substantial and wealthy men have large sums invested in the stock of companies of which they are directors, gives others confidence in their management; because it is realized that unwise or careless management resulting, in loss to the company, will bear far more heavily upon them than upon the lesser stockholders. The idea is not to propose a Quixotic remedy for imaginary dangers, but a practical means of curing actual defects, and it is submitted that there is nothing in this proposed differentiation of directors — this bicameral system of corporate management — that could bear heavily on honest directors, or that would deter what we have called business experts from giving the benefit of their experience and knowledge to companies in which they are interested.

Provision should be made for the recording of a protest by a dissenting director or trustee against fraudulent, negligent or wasteful acts in the manage-

ment of a company. This could readily be made available to any director who reasonably apprehended injury to corporate interests, and such dissent, with a sworn statement of the circumstances calling for it, mailed to stockholders of record and filed with the Secretary of State, could serve the double purpose of limiting such director's liability for the threatened injurious acts and of apprising the shareholders of the threatened injury.

To prevent malicious injury to a corporation by a minority director or trustee, the filing and mailing of such a statement, maliciously and without reasonable cause, could be made a misdemeanor.

IV.

WHAT AMENDMENTS TO OUR STATUTES WOULD SUCH A SCHEME REQUIRE?

A careful examination of the General Corporation Law and the Stock Corporation Law convinces me that the amendments necessary to carry the above suggestion into operation would be few and simple — I do not think it proper to set them forth here.

At first sight it appears like a revolutionary change, but, in reality, it is not such. The courts already differentiate corporate directors, and hold them to varying degrees of liability, according to their activity of function. Thus I suggest nothing more than an embodiment in our statute books of rules of equity, the reasonableness of which no one now disputes, and the addition of such efficient modes of procedure as shall afford speedy redress for the injuries that stockholders and those dealing with the corporations, as well as the public, may have sustained. And the advantage of so doing lies chiefly in the fact that stock-

holders may have the means of definitely knowing the degree of care they are entitled to expect from those to whom they have intrusted the management of their interests, and the degree of accountability to which they may hold them.

The President: Gentlemen — We are highly honored by the presence of the distinguished president of the American Bar Association, Hon. Moorfield Storey, of Boston, whom I have asked to address you.

Mr. Storey addressed the association as follows:

Mr. President and Gentlemen of the Bar Association of New York — When I accepted your courteous invitation to attend this meeting I did not agree to make a speech. On the contrary, I may say that I agreed not to, but such agreements are regarded as of very imperfect obligation even in so essentially law abiding an assembly as a meeting of lawyers. I might, perhaps, suggest to your committee on reform the question whether steps should not be taken to secure greater respect for obligations of this character, but they might reply that the penalty now provided for a breach of the contract, the necessity of listening to the speech which follows, is a sufficient sanction — an instance where the punishment peculiarly fits the crime. I should, however, be lacking in courtesy if I did not avail myself of the opportunity which the indulgence of your president has offered me to express the pleasure which I have derived from the addresses which I have heard, and my gratification at this opportunity to enlarge my pleasant acquaintance with the members of the New York Bar.

I came here to listen and not to speak, as a learner and not as a teacher. You have appreciated earlier than we in Massachusetts the advantages gained by organization among the members of the bar. The Bar Associations of the State and the city of New York have been vigorous and effective agencies of reform for years and we are all familiar with their achievements. In Massachusetts we have no Bar Association of the State. We have an association in Boston which is extremely regular in its attendance at our occasional dinners, but which is apt to neglect the other duties of a Bar Association. We have not impressed ourselves upon the legislation of the State, and although we have committees to whose care various matters are confided, yet the members are, as a rule, so busy in attending to their individual affairs that they give but slight attention to public questions. In listening to what has been said here I find that you are confronted with the same difficulties that beset us. Our Chief Justice, a few days ago, remarked that our profession during the last one or two centuries has advanced less than any other, and to a certain extent this is undoubtedly true. Whether the fault lies entirely with the Legislature, of which our profession forms so large a part, or whether it is to be sought elsewhere, is a question upon which, perhaps, the Legislature might wish to be heard.

I have listened with extreme satisfaction and entire sympathy to all that was said by your distinguished fellow citizen, Dr. Depew, last night, and I hope that now he has spoken it will be found easier for other members of our profession to express their opinions upon a question which so vitally affects the future of this country. There are many who seem to

be deterred by the fear that if we oppose the policy adopted by our representatives in Washington, we shall be charged with lack of patriotism. I decline to adopt this definition of patriotism. A patriot is one who seeks to advance the highest interests of his country and of her citizens, and our whole theory of life is wrong if those highest interests are not better advanced during a time of peace, when all the influences of education and civilization are given their fullest effect, than in a time of war, during which not only, as Cicero said, are the laws silent, but during which, as Sidney Smith said, "God is forgotten." I do not believe that the greatness of a nation is measured by the number of square miles which it misgoverns, but by the character of the institutions and the quality of its citizens.

Nor am I one of those who give my adhesion to the doctrine that we must support our country right or wrong. I believe it is the duty of every patriot to do everything in his power to keep his country right and do everything that he can to prevent her from going wrong. We all remember how the clerk after reading the indictment proceeds, "To this indictment the defendant has pleaded 'not guilty,' and for his trial has put himself upon the country, which country you are." This is the solitary instance in which twelve men have the legal right to call themselves a country. This is a popular government, and it goes right or wrong, as public opinion expresses itself. It is altogether too common for a man who is a senator or a cabinet officer to say, "I am the country and all who differ with me are unpatriotic." I think it is time for us to assert ourselves, and for every citizen to do what he can to prevent a departure from the policy of

peace under which our country has grown great. We did not choose our president or our representatives upon any issue such as is now before us. Upon the question of the hour the country has never expressed its opinion, and no man can claim to represent it. The opinion of the country is now making and every good citizen must do his part to make it right.

I fear for our country a successful war more than any other calamity. We can survive defeat, but it will be very hard to preserve our institutions against victory. The triumph of Rome in the second Punic war paved the way for the downfall of the Roman Republic. We must be certain that we are entirely different from every other nation before we expose ourselves recklessly to the evil influences which they have failed to resist. It would seem that with the problems before us of currency, of taxation, of the relation between labor and capital, and of municipal government, we have on our hands all the difficulties that the most exalted patriot can require. If he wishes foes worthy of his steel, questions which demand all his ability and all his courage, he has only to look about him. There are bosses here more dangerous than any foreign enemy.

It is at least clear that we do not want one foot of foreign territory. There is no neighboring people that are so clearly able to govern themselves honestly and well that we can afford to let them take part in the task of governing us. Does it seem to you that it is wise for us to undertake the labor of instructing senators from Hawaii or Cuba in the principles of sound currency when we cannot teach them to the senators from our new States, or even to those from Pennsylvania? Is it not idle for us to attempt to gov-

ern Cuba when we find it so difficult to govern the city of New York? Reformers all over the country are continually claiming that the great difficulty which we have in the administration of this government, comes from the presence in our midst of foreigners. Those foreigners are here under our system, subject to our police, educated at our schools and by our press, and taking part in the solution of the problems with which we are called upon to deal. If we cannot control them, what think you would be the result of adding to our body politic whole States of foreigners, not subject to our police, unfamiliar with our institutions or even with our language, and not subject to any of the influences of education or association to which our naturalized citizens are now exposed? Are such foreigners likely to help us in dealing with our difficulties? Can you imagine a more dangerous element introduced into our body politic than assistance of that character?

Permit me to say further that the suggestion which has been freely made that this new development of the Monroe Doctrine does not involve a protectorate of South American States seems to be founded on a very imperfect appreciation of its consequences. We say that if a foreign nation finds its citizens abused by Venezuela, there is nothing in the doctrine to prevent it from going to war and punishing the offending power. If war is to be carried on, the power that is waging it must have the right to enter the territory of its enemy, must have the right to occupy cities or strategic points for the purpose of enforcing the payment of the war indemnity which is now always demanded by the victor. War between an European nation and a South American state must be waged

with all the weapons that are now used. We cannot say that it must be confined to blockade or operations at sea. Such war would fail of its effect. But by the new Doctrine, the moment an army enters the territory of a South American power, we must say "stop" lest the entry may result in a permanent occupation. We must immediately enlist on the side of the smaller power, and if the South American powers feel that they can rely on our aid, is it not likely to excite their already sufficiently irresponsible governments to greater disregard of foreign rights? Is it not perfectly clear that we are making ourselves practically responsible for the actions of these powers? In fact, the United States is putting its name on the back of a great deal of very insolvent paper. Are not here two sides to the question? Is it not worth while for the American people to consider what the result of this policy must be? It is a departure from the rule under which the United States has grown rich and powerful.

There is nothing in my judgment more discouraging than the fact that when the message of the President was laid before Congress, there was not in the whole House of Representatives a single man who had the courage to stand up and say, "As this dispute has lasted ninety years, is it not safe for us to sleep on it a single night?" Public opinion in this country should assert itself when our representatives are cowed or paralyzed.

The best war that was ever fought was the war of the rebellion, but it has left behind it a legacy of party spirit, of extravagance, of taxation, of corruption, which has stood between us and good government for thirty years. We are finding it impossible to decide what our dollar is now, thirty years after

that war closed. Can we afford to let our rulers, for no cause that concerns us, expose us not only to the material consequences of another war in loss of life and property, increased taxation and fresh pensions, but to the far more terrible demoralization which war always causes? It is said that these sentiments are unpopular, but my judgment is that we shall not go far before they become popular among all right thinking Americans. I think that the Bar of New York can render their country no greater service than by giving their adherence to the views so eloquently expressed by Mr. Depew last night.

I have listened with interest to your discussion of legislative reform, and I note the general opinion that steps should be taken to prevent special legislation. In Massachusetts, we have the worst kind of special legislation. If a town needs water, its power to supply it is given by special act. If a justice of the peace neglects to renew his commission, a special law is passed to legalize his acts. Such special legislation is convenient and not dangerous, and while I recognize the evils of special legislation in many cases, I think the effort to prevent it has been carried too far, and has been very unsuccessful.

Thus in Ohio there is a stringent constitutional prohibition which requires the division of cities and towns into classes and forbids legislation that does not apply to a whole class. The result is that the Legislature, for example, passes a law permitting "every city which, by the last Federal census, had, or which, by any future Federal census, shall have, a population of not less than 5,275 or more than 5,280" to build a bridge over a river within its limits. You will find those statutes scattered through every vol-

ume of Ohio laws. The practical necessities of life require such legislation and the Constitution is evaded. Your New York rule which forbids a special law wherever a general law is possible, substantially accomplishes little, when the Court of Appeals decides that if a special law is passed it is a legislative decision that a general law was not possible and therefore the special law is valid. I approve the New York view, but it fails to prevent special legislation, and I have yet to find in any State a satisfactory method of dealing with this evil.

I see that you are trying to diminish the law's delay, a task which has taxed the energies of our fathers and will doubtless baffle our sons. We have undertaken in a small way to deal with this question. Not many years ago, counsel in Boston were allowed to argue before a jury, one seventeen hours, the other eighteen hours. That led to the adoption of the rule which gives counsel at a jury trial one hour on a side. In our Supreme Court at the argument on questions of law the same rule prevails. Yet we are still confronted in the courts with accumulating business. I have sometimes thought that something might be gained by dividing the court into sections instead of having all the judges hear every case. That system has been tried in England where the Court of King's Bench, the Court of Common Pleas, and the Court of the Exchequer, all administered the same law and without substantial disagreement. In this way only does an increase of judicial force expedite the decision of cases. If all sit together, there is more discussion and consequent consumption of time and less individual responsibility. Nine judges may hold what one

would not, each relying on his associates and not using his own judgment.

But, gentlemen, if I were to say all that I should like to say on every subject that has been mooted here, I should be making a speech, which I agreed not to do, and although you have relieved me from the obligation of my agreement, I think I ought myself to pay it at least some respect. Let me, therefore, close by thanking you again for the opportunity I have enjoyed, and by wishing your association long life and continued influence for good.

The President: Professor C. G. Tiedeman has prepared a paper which he will now read.

THE DOCTRINE OF STARE DECISIS AND A PROPOSED MODIFICATION OF ITS PRACTICAL APPLICATION, IN THE EVOLUTION OF THE LAW.

BY PROF. CHRISTOPHER G. TIEDEMAN, PROFESSOR IN THE UNIVERSITY LAW SCHOOL, NEW YORK CITY.

Upon an examination of the table of cases digested in the American Annual for 1895, assuming that the same case does not appear under different headings in different places, I find that in the year 1895 — or rather from September 1, 1894, to September 1, 1895, there had been decided, and opinions written and filed, including all the American Courts, both Federal and State, over twenty-two thousand cases. And in the prospectus of the West Publishing Company, announcing the publication of their Century Digest of American Cases, it is stated that the proposed digest will contain references to over 500,000 cases.

It is not at all surprising that the Legal Profession are appalled at this mountain of raw material, which they are supposed to read and digest, and have at their command in giving legal opinions, and in caring for the interests of their clients. It is not to be wondered at that Bar Associations have taken the matter into consideration for the purpose of discovering some relief from the grievous burden. The average lawyer, or, for that matter, the extraordinary lawyer, cannot with supernatural industry, cover this ground, even on subjects of the law, of which he has made a specialty. And if he should confine himself to the reports of his own State, he will, nevertheless, find it a hard, if possible, task to keep up with the current decisions.

In a recent report of the Committee on Law Reporting of the American Bar Association, submitted and read at its annual meeting in Detroit, August, 1895, before entering upon a statement of their propositions for palliating this evil, the Committee say: "The propriety or wisdom of restricting publication of the opinions of the Courts has, therefore, not been considered as an open question by your Committee, but as settled in favor of the widest liberty to the publisher. This accords alike with the sentiment of the Bar and the constitutional provisions in many of the States." It is undoubtedly true that the Bar and public sentiment demand it, but I cannot escape the conviction that the root of the evil lies in the unwisdom of publishing in full all the reported cases which are filed in the various American Courts, and in thus fostering what I shall attempt on the present occasion to prove to be a partly fallacious doctrine, that the law is made by the Courts, and, that, therefore, it is to be

found at first hand only in judicial utterances. If it be true that the law of the land is only to be found scattered through the half million and more of published American Cases, then it is a human impossibility to master the law. If it be claimed that one can learn the law sufficiently to be a safe counsellor, without reading this whole mass of judicial opinion, and by reading only a comparatively few selected cases, then I submit that the publication of the whole mass is not only a useless expenditure of capital and a severe financial burden upon the practicing lawyer, but it also needlessly confuses him, and draws the attention of both Bench and Bar, in the hearing and trial of causes, away from the consideration and application of fundamental principles by an unnecessary consideration of the facts of numerous particular cases. Instead of ascertaining what should be the judgment of the Court in the pending cause of action, by the consideration and application of fundamental principles of law and justice, the effort of counsel seems to be mainly directed to finding a decided case which is identical with or similar to the pending case, both as to the facts and presumed law. The result is, not only a perpetuation of "case law," but an increase, possibly in geometrical ratio, of the professional desire to get hold of every possible case that might bear upon the points involved in the pending cause of action. It is not sufficient to purchase the official volumes of reports, as they are published; in obedience to the demands of the Profession, enterprising publishing houses issue monthly reports of cases decided in the various courts during the preceding month.

What is the reason for this extraordinary demand for the latest judicial utterance?

It is to be found in that rule in the Anglo-Saxon Law, which makes a judgment in a decided case not only binding upon the parties to that case, but, so far as it involves the enunciation of a general principle of law, binding upon all inferior courts, in the trial of subsequent causes of action, which contain the same or similar facts, and require the application of the same principles of law. It is known as the rule of *Stare Decisis*. This rule does not ordinarily make it obligatory upon the same court in a subsequent court to follow their ruling in a prior case, involving the same material facts and the same rule of action, where the court reaches the conclusion that it was wrong in the previous case. It is not an uncommon occurrence for the highest courts of the land, avowedly to reverse its prior decisions. The Supreme Court of the United States has done so often, and in the *Legal Tender* cases, and the cases construing the constitutional limitation of the power of the United States Government to levy direct taxes, it has overruled itself to the intense astonishment of the public. But the general experience is, that the court will not overrule a line of decisions even though it may be fully satisfied that they are based upon an erroneous conception of the law applicable to the cases if vested interests have been built up in reliance upon the permanency of the ruling of the court. Under such circumstances, unless the erroneous decision outrages the popular sense of right, the ruling will be upheld, in accordance with the legal maxim *communis error facit jus*. As was said by the court in a Wisconsin case: "It is true that when a principle of law, doubtful in its character or uncertain in the subject matter of its application has been settled by a series of judi-

cial decisions and acquiesced in for a considerable time, and important rights and interests have become established under such decisions, courts will hesitate long before they will attempt to overturn the result so long established." (Smith, J., in *Pratt v. Brown*, 3 Wis. 603.) The explanation of the rule of *Stare Decisis* is to be found in the intense and just desire to secure uniformity and certainty in the enforcement and application of the law. A bad law, which is uniformly enforced in accordance with a fixed and definite construction of its meaning and application, may be preferable to a good law which is construed by the courts in an uncertain and vacillating manner, making it impossible for the people to anticipate the judgments of the court with any reasonable certainty. The binding force of judicial precedents tends to reduce to a minimum that element of uncertainty which has been the occasion for popular reproach of law in all times and climes. This is the only positive gain from the rigid obedience of the rule of *Stare Decisis*. As Chancellor Kent says: "A solemn decision upon a point of law arising in any given case becomes an authority in a like case, because it is the highest evidence which we can have of the law applicable to the subject, and the judges are bound to follow that decision so long as it stands unreversed, unless it can be shown that the law was misunderstood or misapplied in that particular case. If a decision has been made upon solemn argument and mature deliberation, the presumption is in favor of its correctness, and the community have a right to regard it as a just declaration or exposition of the law, and to regulate their actions and contracts by it. It would, therefore, be extremely inconvenient to the public, if precedents

were not duly regarded and implicitly followed. It is by the notoriety and stability of such rules that professional men can give safe advice to those who consult them, and people in general can venture to buy and trust, and to deal with each other." (1 Kent, 475.) In 1 Burr. 419, Lord Mansfield said: "Where solemn determinations acquiesced under had settled precise cases, and a rule of property, they ought, for the sake of certainty, to be observed, as if they had originally formed a part of the text of the statute."

The Supreme Court of the United States have in the recent case of *Douglass v. Pike Co.* 101 U. S. 679, laid down a proposition of law as to the force of the judicial precedent, which may very easily, in subsequent applications of the principle, be made to deny to a court the power to overrule a prior decision as far as to affect the rights of those who have invested capital in reliance upon the permanency of the ruling. And in such a case, the adjudicated rule of law could only be changed by statute or by an injunction, restraining parties from creating or requiring vested interests in the future in reliance upon the stability of the earlier but erroneous ruling.

Chief Justice Waite says: "As a rule, we treat the construction which the highest court of a State has given a statute of the State as part of the statute and govern ourselves accordingly; but where different constructions have been given to the same statute at different times, we have never felt ourselves bound to follow the latest decisions, if thereby contract rights which have accrued under earlier rulings will be injuriously affected. * * * The time rule is to give a change of judicial construction in respect to a statute the same effect in its operation on contracts and exist-

ing contract rights that would be given to a legislative amendment; that is to say, make it prospective, but not retroactive. After a statute has been settled by judicial construction, the construction becomes, so far as contract rights acquired under it are concerned, as much a part of the statute as the text itself, and a change of decision is to all intents and purposes the same in its effect on contracts as an amendment of the law by means of a legislative enactment."

Is the doctrine of *Stare Decisis* necessary to secure certainty and stability in the law? The average common law lawyer would consider this question to be like in its settled character to the geometrical conclusion that the square of the hypotenuse of a right angle triangle is equal to the sum of the squares of the other two sides. But the answer to that question cannot be so certain, as one might at first blush suppose, when we remember that in no other jurisprudence, known to mankind, was the same importance and effect given to judicial utterances. The law of the English-speaking people is built upon judicial precedents. But in no other contemporary jurisprudence is the same respect shown to judicial precedents, and the rule of *Stare Decisis* is unknown to all of them. An occasional decision, rendered by some exceptionally eminent judge, may be published and quoted with respect; but the jurists of the continent of Europe give sparing consideration to judicial utterances, and boast of their independence of judicial precedent. In a recent article on Judicial Precedents, published in the "Harvard Law Review," May, 1895, Prof. Gray quotes from Jordan, 8 Archiv. fuer civil Prax. 191, 245, et seq., as follows: "Judicial usage (Gerichtsgebrauch) as such, that is by reason of its

being judicial usage, has formally no binding force and materially only as much value as on the principle of a sound jurisprudence belongs to it by reason of its inner nature; and hence a court cannot be bound to follow its own usage or the usage of another court as a rule of decision, but rather has the duty to test every question with its own jurisprudence, and ought to apply usage only when it can find no better rule of decision." Professor Gray also quotes Stobbe (1 Handb. d. deutsch Privat rechts, § 24, p. 165): "Practice is in itself not a source of law; a court can depart from its former practice, and no court is bound to the practice of another. Departure from the practice hitherto observed is not only permitted but required, if there are better reasons for another treatment of the question of law."

And even in Scotland, whose jurisprudence is distinctly derived from the Roman Law, notwithstanding the close political and racial ties, which bind that country to England, and although the House of Lords has appellate jurisdiction over the Scotch Courts, we find the Anglo-Saxon doctrine of judicial precedent, practically repudiated, and only qualifiedly recognized at all.

Erskine, in his Institutes, book 1, lit. 1, § 47, says: "An uniform series of decision of the Court of Sessions, i. e., of their judgments on particular points, either of right or of form, brought before them by litigants, and anciently called Practics, is by Mackenzie accounted part of our customary law. Thus far may be admitted. First, that their more ancient decisions, from which it appears that any particular usage had then acquired the force of law, may be properly brought in proof of that custom, if it have

not afterwards lost its authority by an immemorial and universal usage to the contrary; and, secondly, that great weight is to be laid on their later decisions, where they continue for a reasonable time uniform upon points that appear doubtful. (L. 38 de leg ib.) But they have no proper authority in similar cases, because the tacit consent on which unwritten law is founded cannot be inferred from the judicial proceedings of any court of law, however distinguished by dignity or character; and judgments ought not to be pronounced by examples or precedents." Erskine proceeds to state that even the decisions of the House of Lords, on appeal from the Scottish Courts, have no binding force as precedent on the Scottish Judges in their trial of similar causes of action.

Professor Gray, in the article already referred to, has also demonstrated the fact that the Anglo-Saxon doctrine of *Stare Decisis*, is comparatively of modern growth; for in the earlier centuries of the English jurisprudence, adjudicated cases were rarely cited as precedent, or even as authority.

Indeed, the History of the Law reveals the surprising fact that the doctrine of Judicial Precedents, as we have it, is unknown to every other existing system of jurisprudence, and was known to the Roman jurists only to a limited degree and in a different sense. In the Roman Jurisprudence, the judgment of the court that the plaintiff shall or shall not recover on the proved facts of a cause of action, never was considered a source of law. Growing out of the necessity of some guide to the court in the practical administration of the law, there arose a body of learned jurists, known as jurisconsults, whose writings in the interpretation of the law were accepted as a source of law.

When these writings became numerous, a few of them were by Imperial decree selected from the mass, and declared to have the force and effect of law, the same control over judicial action, which we now ascribe to a judicial decision in a prior cause of action.

Afterwards the distinction between these authorized and the unauthorized writings was ignored, and the writings of all Roman jurists of respectability were cited as authority. It remains, however, true that the Pandects of the *Corpus Juris Civilis* are composed chiefly of excerpts from the writings of these authorized jurisconsults.

How does it happen, therefore, that this all-powerful doctrine of *Stare Decisis* has grown up in only one system of jurisprudence and that, too, only in the later stages of its development, and yet has acquired such a mastery over the Anglo-Saxon juridical mind, that it excludes everything else except statutes, from consideration as sources of law. There surely must be some fundamental reason for this marvelous juridical phenomenon. I believe that it can be discovered, if we are able to keep clearly before our minds the professed reason for the doctrine. As was stated by Chancellor Kent, in the quotation from his commentaries heretofore given: "If a decision has been made upon solemn argument and mature deliberation, the presumption is in favor of its correctness, and the community have a right to regard it as a just declaration or exposition of the law, and to regulate their actions and contracts by it;" and, as it has been more strongly expressed by the Supreme Court of the United States, in *Douglass v. Pike Co.*, 101 U. S. 679: "The true rule (of *Stare Decisis*) is to give a change of judicial construction in respect to a statute

the same effect in its operation on contracts and existing contract rights that would be given to a legislative amendment; that is to say, to make it prospective, but not retroactive. After a statute has been settled by judicial construction, the construction becomes, as far as contract rights acquired under it are concerned, as much a part of the statute as the text itself, and a change of decision is to all intents and purposes the same in its effect on contracts as an amendment of the law by means of a legislative enactment." The rule of *Stare Decisis*, therefore, serves the purpose of protecting vested interests against any popular attacks exerted through a change of judicial opinion. As was set forth by the Supreme Court of the United States in the case of *Douglass v. Pike County*, it so ties the hands of the highest courts of the land that an error of judicial judgment, where such judgment affects vested interests, can only be corrected, if at all, in cases where the proposed transaction is still executory, and no one has acquired a vested interest therein. The protection to vested interests and the ascertainment of certainty in the administration of the law are held to be paramount to the ascertainment of absolute right and justice in the particular case. *Communis error facit jus* is the corner-stone of the rule *Stare Decisis*. In other systems of jurisprudence, greater stress is laid upon the attainment of absolute justice in the concrete case. I believe this difference in fundamental principle to be occasioned by the difference in the political and economic conditions of the different nations. After giving due acknowledgment of the influence of the *Corpus Juris Civilis* over Continental Europe as the supreme source of modern law, which is not conceded

to it generally among the English speaking peoples, I find that vested interests are and have been more seriously threatened among Anglo-Saxon peoples by the onward march of Democracy than among other peoples. With the gradual increase of this danger of attack from the masses vested interests required and demanded greater protection than could be afforded to it if the binding force of judicial precedent were not developed to the utmost.

The possessors of the vested interests endeavored, by the extension of this doctrine of *Stare Decisis*, to limit the obedience of judicial opinion to the prevalent sense of right, or the national will, so far as it was possible to do so. Freed from the restraining influence of the power of judicial precedent, every judicial utterance would reflect the constantly changing national will, and hence vested interests would be at the mercy of the demands of the democracy. So far as the doctrine of *Stare Decisis* serves the purpose of a brake on the wheels of democracy, with its socialistic and other more or less revolutionary demands for change, it is a precious heritage of the common law, and should be jealously guarded against destruction or abrogation.

But the question still remains to be asked and answered, What part of the judgment of a court of last resort is properly conceded this all-powerful influence of a judicial precedent? On one proposition there would be no difficulty in obtaining substantial unanimity of opinion, i. e., that the judgment of the court that, on the proved facts of the case, plaintiff should or should not recover. Everyone would agree that in a subsequent cause of action, involving the same facts, or facts having the same legal significance, the judg-

ment of the court should be the same. But the present doctrine of *Stare Decisis*, as it is usually set forth and explained, goes farther than that. In explaining what part of the opinion of the court shall have the force of judicial precedent, it is usually stated that any process of reasoning set forth by the Court in its opinion, which is a logical necessity to the conclusion of the Court, which takes shape in its judgment, has the force of judicial precedent and must be followed by the inferior courts in all subsequent causes of action, which involves the same questions of law. But if the Court expresses its opinion on matters, which are not necessary to the support of its judgment, these opinions are *dicta* and do not have the force of precedents.

I maintain that the doctrine of *Stare Decisis* is not properly applicable to anything more than the judgment of the Court that the plaintiff shall or shall not recover on the proved facts of the case. The reasoning, in the opinion which one of the judges writes and files as the utterance of the Court, explaining their judgment is pure *dicta*, and ought not to be conceded the force of judicial precedent. I need only suggest that the prevalent statement of the scope of judicial precedent is absolutely inexplicable in a case where a majority of the Appellate Court concur in the judgment, but assign different reasons for their conclusions. Which opinion is precedent in such a case?

Two fundamental objections may be brought against the prevalent doctrine, that judicial utterances, apart from the judgment of the Court, should have the force of judicial precedent. One is philosophical, the other is extremely practical.

No one can seriously question the proposition that law, in its totality, is an expression of the national will. This is not only true in the case of legislative enactment, but also in the judgments of the Courts. The Legislature and the Court, alike, consciously or unconsciously, obey the popular mandate, and so far as either of these departments of the Government correctly interpret this mandate, the enactment or judgment, as the case may be, becomes a part of the living law of the land. To the extent to which the Legislature has failed in its enactment to interpret the popular will, the enactment will become a dead letter, unless the Courts, under the influence of a more correct conception of the popular will, may, by construction and interpretation, bring the statute into closer conformity therewith.

It is not unlikely that in the vast majority of cases judges are unconscious of popular influence in the rendition of the judgments of the Courts; but there can be no doubt that their judgments, so far as they actually become a part of the permanent jurisprudence of the country, have their foundation in the national will or prevalent sense of right. Any other doctrine would be most monstrous in its consequences.

Now the judges reflect the national will or prevalent sense of right only when they pronounce judgment. The opinions which they assign for rendering the particular judgment are personal to them. They represent their interpretation of the national will, and not the national will. If, in a series of decisions, the Courts have adhered to a particular judgment on the same or similar facts, the ruling of the Courts may be accepted as the correct presentation of the prevalent sense of right in such cases; but the reasons assigned

by the individual judges for their pronouncement of the judgment are their personal opinions, the value of which depends upon the ability and legal acumen of the particular judge. They are the individual's interpretation of the prevalent sense of right, and may or may not be a reliable guide. When, in the first days of my professional career, I met with the Bentham charge against the Common Law that it was judge-made law, I believed it to be literally and profoundly true, and viewed as a very specious reply, the claims that the Courts, even in novel cases, do not make law, they only declare what is the pre-existing law. And it is very hard in some cases to escape the conviction that the Court has actually engaged in legislation. For example, when the Courts in this country were first called upon to decide upon the liability of a telegraph company to the public and to the transmitter of a message, without any statutory authority for the same, they applied to these novel cases the analogous, but nevertheless different doctrine as to the liability of the common carrier.

If the Court is to be considered as a body of individuals, standing far above the people, out of reach of their passions and opinions, in an atmosphere of cold reason, deciding every question that is brought before them according to the principles of eternal and never varying Justice, then and then only may we consider the opinion of the Court as the ultimate source of the law. This, however, is not the real evolution of the municipal law. The bias and peculiar views of the individual judge do certainly exert a considerable influence over the development of the law. But if we look beneath the surface, we cannot escape the conviction that all law, so far as it constitutes a living rule

of civil conduct, whether it takes the form of statute or of judicial decision, is but an expression of the popular sense of right through the popular representatives, the Legislature, or the court, as the case may be. Neither the court nor the Legislature make living law, they only declare that to be the law, which has been forced upon them, whether consciously or unconsciously by the pressure of the popular sense of right, that popular sense of right being itself but the resultant of the social forces which are at play in every organized society. The opinion of the court, in which the reasons for its judgment are set forth, is a most valuable guide to a knowledge of the law on a given proposition; but one cannot always understand the application of the law of the case by merely reading this opinion. This thorough knowledge is to be acquired only by studying the social and political environment of the parties and the subject matter of the suit, the present temper of public opinion and the scope and character of the popular demands, as they bear upon the particular question at issue. If one relies solely upon the expression of judicial opinion, his attempt to forecast the probable decision in a pending cause of action will not amount to much more than guess work, where there is any doubt as to the pre-existing law, or where intense public feeling is enlisted in the litigated question. But if one weighs the power and effect of all the forces that are working and playing upon the particular question at issue, there is a reasonable prospect that he will get a fairly correct conception as to what will be the judgment of the court.

The other, and more practical objection to the ascription of the force of judicial precedent to the

opinions of the courts, is that under the existing limitations of judicial power, comparative accuracy in the enunciation of general principles, as a foundation for a scientific jurisprudence, is impossible to the judge on the bench.

It must be remembered that the chief duty, one might say the sole duty, of the judge or bench of judges, is to administer justice between those particular parties litigant, who are at the time pleading their cause, and not to frame general propositions of law or to lay the foundations for a system of jurisprudence. And this exclusive duty of the courts is brought into bold relief by the universally accepted doctrine, in the absence of statute to the contrary, that the courts, as such, cannot pronounce any opinion, which does not involve the rendition of judgment between the parties to a particular cause of action.

Absorbed in the holy desire to do concrete justice to these particular parties, the judge is unable to give to his statements of the general propositions of law that careful attention as to phraseology which is necessary to make these opinions safe guides in future litigation. The most fruitful source of litigation in this country is the great attention which is paid to the phraseology used by the court, particularly in the enunciation of more or less general propositions of law. In the recent case of the People, *ex rel.* Hecker-Jones-Jewell Milling Co. v. Barker *et al.*, Justice Peckham, referring to the Thurber-Whyland case, reported in 141 N. Y. 118, said: "Very possibly language was used in that case in the course of the opinion which might be capable of a construction broader than was called for by the facts appearing in that record. If so, it would be but another illustration of

the truth and importance of the principle which makes it necessary to construe the language used in judicial opinions strictly with reference to the facts which exist in the case which is decided." The failure to observe this salutary rule by both Bench and Bar contributes to a most marked degree to the confusion and uncertainty which prevails in the law. Obedience to the letter of judicial opinion does not in any way promote the valuable aid sought in the enforcement of the rule of *Stare Decisis*.

Limited as they are by the more pressing immediate duty of deciding the concrete cause of action before them, judges, it matters not how able they are, cannot successfully assume the role of jurists, and construct by piecemeal an enduring jurisprudence. The same men, with all their wealth of learning and practical experience, could better do their part towards the construction of a jurisprudence, if they were to be charged with the composition of commentaries or treatises on the law. Apart from the artificial importance given to the judicial opinions of Chancellor Kent and Justice Story by the rule of *Stare Decisis*, from the standpoint of a scientific jurisprudence, the commentaries of the former and the treatises of the latter of these two distinguished men are of incalculably higher value. The late Mr. Justice Miller, of the Supreme Court of the United States, in an address before the Law Department of the University of Pennsylvania on the use and value of authorities, in his comment on the variable value of decisions and judicial opinions as precedent, said: "It has often been my fortune to listen to able counsel citing the decision of some very inferior judge or judicial officer, as if it were entitled to control the action of the court

which he addressed, and the observation has been forced from me, 'Tell me what *you* think about this, for I esteem your opinion of much more value than that of the authority cited?' "

In the assumption of this position, as to the value as judicial precedents of the opinions of our courts, I wish to expressly disclaim all intention to unduly depreciate those opinions as sources of the law, or to ignore the high intrinsic merit of the immortal opinions of such judges as Marshall, Kent, Story, Taney, Milier, and a host of others, both dead and living, too numerous to mention. My claim is, not that the judicial opinions of these great men are not deserving of the closest study in the effort to learn the law, and more particularly in the effort to learn how the law is made in the Anglo-Saxon system of jurisprudence, but that these same men, including the present occupants of the appellate benches throughout the country, could have rendered an incalculably greater service in the development of our jurisprudence along scientific lines if they had been charged by the country with duties similar to those required of the Roman jurisconsults, viz., the analytical composition and construction of the law in all its branches. If, instead of having to render judgment on the facts of a concrete case, they were charged with the duty of formulating a scientific, and hence comparatively exact, analysis and exposition of the law, as it has been evolved in the course of actual litigation out of the national will, the occasions for reminding courts and litigants of the rule of construction referred to by Mr. Justice Peckham, which limit the value of judicial opinion, would not be so frequent.

I have collected a number of striking illustrations

of the unreliability of judicial enunciation of general principles of law drawn from well known cases in the reports of the United States Supreme Court and of the New York Court of Appeals, but it would take up too much of the time of the Association to give them all. By way of practical illustration of the principle I am contending for, I will select two well known cases — one from the New York Court of Appeals, and the other from the Supreme Court of the United States — in which confusion has arisen from a too close adherence to the opinion of the court.

The first is our old acquaintance, the case of *Moore v. Littel*, 41 N. Y. 66, in which the already complicated law of remainders was still further complicated by the opinion of the court, that, upon the abolition of the rule in *Shelley's* case, a remainder to the heirs of the tenant for life was vested in his children as soon as they were born, liable to open to let in after-born children, and further liable to be defeated as to those children who die before the life tenant, their parent. The actual judgment of the court was that the children then in being could convey this defeasible title and that their conveyance would be binding upon them in the event of the title becoming absolute in them by their survival of the life tenant. In the first place, this judgment could have been rendered without reaching the conclusion that the remainder was in any sense vested, because it had long since become an established rule of the common law that a contingent remainder could be aliened. While, in the case of the uncertainty relating to the persons who are to take the remainder, a present alienation of title was not, conceivable by the common law lawyer, a present conveyance by an heir apparent of his prospective inherit.

ance would operate practically as a conveyance under the principle of estoppel that a grantor is estopped from setting up an after acquired title against his grantee. Hence, the opinion in *Moore v. Littel*, that the remainder was vested, might be considered as a *dictum*. But, laying this contention aside, a little investigation reveals the fact that this surprising decision was occasioned by an oversight of the Revisers of the New York statutes. They incorporated the common law definitions of vested and contingent remainders, at the same time making changes in the incidents of remainders, which made the two definitions conflict with one another.

The two definitions are as follows: A remainder is "vested where there is a person in being who would have an immediate right to the possession of the lands upon the ceasing of the intermediate or precedent estate." The remainder was defined to be "contingent whilst the person to whom, or the event upon which they are limited to take, remains uncertain." Under the latter definition, a remainder to the heirs of a living person is contingent; it matters not whether that living person be the preceding tenant for life or some third person. But if he be the tenant for life in possession, and he has children, in their character of heirs presumptive, there would be persons "in being who would have an immediate right to the possession of the lands upon the ceasing of the intermediate or precedent estate," which, according to the statutory definition, would make the remainder vested. But it would not be vested under the same definition at the common law, because at the common law there were more ways of terminating the estate for life, upon which the remainder depended, than by

the death of the life tenant. The particular or life estate could be defeated or terminated by disseizin, breach of condition, merger, and by a tortious feoffment in fee. In the case of a remainder to the heirs of a living person, or to the survivor of two persons, even though the remainder could take effect in possession in persons then living, on the natural termination of the particular or life estate through the death of the life tenant, the same thing could not be said if the life estate were to be prematurely defeated or cut short by any one of the contingencies already given, which was their effect at the common law. The Revisers abolished these contingent possibilities of forfeiture, and overlooked the fact that their abolition made the common law definition of a vested remainder conflict with the definition of a contingent remainder.

Relying upon the opinion of the court in *Moore v. Littel*, that this difference in the two definitions was intentional, we have the court, in *House v. Jackson*, 50 N. Y. 161, deciding that where a tenant for life had likewise such a limitation in remainder, the remainder being vested, merger would result, so that his wife can claim dower in the estate, and must join in any conveyance made by the husband. A host of other cases have followed, in which the well settled common law distinctions between vested and contingent remainders are swept away, and their place taken by what cannot be called rational differentiations, all based upon the judicial construction in *Moore v. Littel* of the effect of a legislator's oversight. This instance may be cited in illustration of the danger not only of following too closely the

phraseology of judicial opinions, but likewise of any attempt at codification of the law.

The other illustration I desire to give is by comparison of the opinions of the United States Supreme Court in the Dartmouth College case (4 Wheat. 518), and the Fertilizing Co. v. Hyde Park (97 U. S. 659). The first case is too well known to need explanation. It is sufficient to say, that the court in that case held that the charter of a private corporation was a contract, which no subsequent State legislation could repeal or in any way impair, and applied the doctrine to the legislative change of the Board of Trustees of Dartmouth College.

In the case of the Fertilizing Company v. Hyde Park, the company had obtained from the Legislature of Illinois a charter for the conversion of the offal of the City of Chicago into fertilizers for the period of fifty years, and during that time the fertilizing company was permitted to select and occupy a site for its factory within a certain area delimited in the act of the Legislature. The company established its factory in accordance with the requirements of the enabling act, and in a short while the town of Hyde Park sprung up about the walls of the factory. The people of the town applied to the Legislature for an act requiring the factory to be removed and to be discontinued, although the time for the enjoyment of the franchise had not expired. The constitutionality of this second act of the Illinois Legislature was questioned, because it abrogated the express charter privileges of the Fertilizer Company. In rendering judgment for the Supreme Court, Chief Justice Waite expressly re-affirms the doctrine of the Dartmouth College case, and yet proceeded to say that under no

circumstances can the court pronounce the act of the Legislature unconstitutional which promotes the health of a community, because it interferes with the enjoyment of the charter privileges of a private corporation. No such limitation of the Dartmouth College doctrine is to be found in the opinion of Chief Justice Marshall. The conclusion is irresistible that the Supreme Court, in the Fertilizing Company's case, practically overruled the Dartmouth College case in holding that the Legislature may take away the franchise of a private corporation, because its enjoyment is prejudicial to the health of a community which has sprung up outside the grounds of the corporation after the latter had become established in accordance with the authority of law. I am not questioning the validity and propriety of the decision in the Fertilizer case. I believe it to be sound law. I am only claiming that the opinion of the court in that case, that the Dartmouth College case was not thereby practically overruled, is not a safe guide to the student or lawyer who wants to know how far he can rely upon the Dartmouth College case as a judicial precedent.

It may be plausibly suggested that my proposition would amount practically to a recommendation of codification. But while the two plans may be similar, they are essentially different.

Roughly stated, codification is universal statutory enactment, the reduction of all the law not only to the form of a statute, but likewise to its unyielding rigidity in its control of the judgment of the court. Its purpose, i. e., of simplifying the law and reducing the volume of litigation, fails completely, and fails because codification is an effort to give the character-

istic of immobility to what is essentially and inherently mobile.

Law is, in the concrete cause of action, the expression through the judge and jury of the prevalent sense of right, or of the national will. And while you may hamper and check its expression by the adoption of a code or the extensive reduction of the law to unyielding statutes, you cannot completely fetter the national will by such devices. That will, through the court and the parties litigant, will contend most strenuously against any provision of the statute, which, however well it may have expressed the popular sense of right, prevalent when the statute was enunciated, does not now represent the national will.

I shall recommend and advocate codification for the American nation when it is a finished people, when they have ceased to be conscious of a national will, when they have reached that period of national decadence and disintegration which was the condition of the Roman Empire at the time that the *corpus juris civilis* was constructed, in order that the jurisprudence of the American people in their palmiest days may be preserved from the blight of oblivion not only for the admiration and worship of our own degenerate posterity, but more particularly that it may live again in the juridical consciousness of nations yet to come into being.

My proposition differs from codification both as to its binding effect and as to form and content.

The official analysis and exposition of the law which I propose would not interfere with judicial liberty in the rendition of its concrete judgments any more than do the opinions of the court in prior cases now control the judgment of the same or inferior

courts in the pending cause of action. Nor would I propose to take away from the decisions of the Appellate Court their binding force as precedent, so far as to require inferior courts to follow the precedents of the Appellate Courts in its judgment that the plaintiff, on the proved facts of the case, shall or shall not recover.

I would still provide for the publication of a report of each case decided by an Appellate Court, but the report should contain only a statement of the proved material facts of the case, and a concise statement of the ruling of the court on the questions of the law. As a substitute for the published opinions of the judges of the court — which Mr. Justice Peckham says should be construed “strictly with reference to the facts which exist in the case which is decided”— I would propose the appointment of a commission, composed of the ablest jurists of the State, of the same high character, which is ordinarily attained in the selection of judges, who shall be charged with the reduction of the existing law to the form of commentaries on the different branches of the law, and after the completion of this primary task, to issue annuals, in which the judgments of the courts during the current year will be analytically explained in the light of their exposition of the existing law, and the modification stated, if any, which the new case has made in the prior law. The courts are to retain their present right to overrule the existing law, and will be required, at least the Appellate Courts, to yield no more obedience to the expositions of the commission than they now show to their own prior judgments.

I would also propose that the expositions of the law set forth by the proposed commission shall not take

on the rigid form of a statute or modern code, but rather the easy flowing form of a commentary. Any attempt to reduce the law to the rigid, contracted form of a statutory enactment will provoke the same litigation that an ordinary statute provokes, that deals with matters of vital interest to the people.

If my plan, upon examination, were found to be feasible, and jurists of the highest character could be induced to become members of the proposed commission, the profession would escape the titanic task of gleaning the law from a study of 500,000 cases, and avoid the uncertainty which attends the difficult effort to reconcile the conflicting opinions of the courts in innumerable cases, in which the judgments, upon a proper analysis of the law and apart from the judicial opinions, can be shown to be in harmony. This may possibly be attained, but litigation and conflict of interests and rights will still go on. There will still be an ever-growing need for courts and lawyers.

AFTERNOON SESSION.

Mr. Louis M. King: The committee on admissions would recommend the following named gentlemen as members:

Henry R. Barrett, Katonah; Harrison T. Slosson, Mount Kisco; E. H. P. Squires, New York; Charles D. Horton, White Plains; Stephen L. Thayer, Yonkers; David O. Williams, Mount Vernon; D. Walter Brown, New York; J. E. Ludden, New York; Lyman W. Reddington, New York; Francis E. Laimbeer, New York; Theodore F. Lozier, New York; George C. Andrews, Tarrytown; George W. Eastman, Ros-

lyn; William W. Gillen, Jamaica; Eugene H. Hanford, Walton; Amasa J. Parker, Jr., Albany; Fred C. Ham, Albany; I. R. Devendorf, Herkimer; Hadley Jones, Little Falls; William McM. Speer, Albany; Nicholas M. Banker, Gloversville; Clarence W. Smith, Johnstown; James M. E. O'Grady, Rochester; William W. Armstrong, Rochester; A. J. Dillingham, Schenectady; W. B. Brinnier, Kingston; Reuben Leslie Maynard, New York.

Mr. Lovett: I move that the report be received and the gentlemen named therein elected. (Carried.)

Mr. E. A. Bedell: The committee on nominations would report the following for officers for the ensuing year:

President, Edward G. Whitaker, New York.

Vice-presidents — First district, Walter S. Logan, New York; second district, Edward T. Lovatt, Tarrytown; third district, Edwin A. Bedell, Albany; fourth district, John D. Wendell, Fort Plain; fifth district, Ceylon H. Lewis, Syracuse; sixth district, John B. Stanchfield, Elmira; seventh district, Charles T. Saxton, Clyde; eighth district, John E. Pound, Lockport.

Secretary, L. B. Proctor, Albany.

Treasurer, Albert Hessberg, Albany.

Corresponding secretary, Amasa J. Parker, Jr., Albany.

(The names of members of committees will be found under the appropriate head at the end of the report.)

Mr. Ward: I would like to second the nominations. The committee have made a very worthy selection for the coming year. I have known Mr.

Whitaker for a great many years. He and I have been associated together in many reform movements and I think he will be a great success as president of this association. The fact that he was assistant to Attorney-General O'Brien has given him a wide acquaintance and a great knowledge of the lawyers throughout the State. He is well and favorably known all over. His influence is such that he can do wonders for this association and I am very happy and proud to say that they have made him as your successor for the coming year. There are very few men who have worked so hard for the interest of this association as he. I feel we are giving him only what is due him for his active service and we hope all will give him a hearty support.

Mr. Fiero: I would move that the secretary cast a ballot for the gentlemen named. (Carried, and the officers reported by the committee were declared duly elected.)

Mr. Frederick W. Hinrichs: On behalf of Mr. Stanchfield I desire to present the report of the committee on legislation.

REPORT OF COMMITTEE ON LEGISLATION IN REGARD TO THE OFFICE OF CORONER.

*To the Honorable State Bar Association of The State of
New York:*

Your committee, appointed at the last meeting of the Association, to prepare and secure the passage of such legislation as would carry out the intent of the amended constitution striking out the word "coroner" from the constitution, beg leave to report as follows:

That your committee corresponded and co-operated

with the New York State Medical Society, represented by Professor R. A. Witthaus, of New York, and its committee on legislation, and with the New York State Homœopathic Society, represented by Charles H. Jones, M. D., of Albany, N. Y., president of said society, and as a result of such conference, a bill (a copy of which is hereto appended), was prepared and presented by Mr. Stanchfield, a member of this committee, to the Legislature of 1895. This bill was referred to the Committee on Judiciary and while in that committee, section nine, which was thought by your committee to be a valuable portion of the bill, was stricken out, but the balance of the bill was reported favorably. Considerable discussion arose in the Assembly as to the power of appointment to the office provided for in the bill as a substitute for coroners in New York City, and it was thought best, on account of certain political conditions then existing that the passage of the bill should not be pressed at that time.

Your committee is informed that the two State medical societies intend to take the matter up, and make an earnest effort to secure the passage of this legislation, or some other similar legislation, at the present session of the Legislature and they, therefore, respectfully ask that they be continued with authority as heretofore, to co-operate with the State medical societies in securing the passage of a bill on the lines laid down in the bill prepared and introduced last year.

All of which is respectfully submitted,

TRACY C. BECKER.

W. H. ROBERTSON,

JOHN. B. STANCHFIELD.

AN ACT to abolish the office of coroner, and to provide for the performance of the duties now performed by coroners.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Section 1. The office of coroner shall be abolished in each of the counties of this State as soon as the terms of office of the coroners in any such counties shall respectively expire, and no coroner's jury shall thereafter be empanelled in said counties.

§ 2. The duties, powers and liabilities of such coroners provided by law when their respective terms of office shall expire as aforesaid, shall in civil actions and proceedings, except in the county of New York, then and thereafter appertain to and be vested in the respective county treasurers of said counties, who shall be entitled to receive the same fees and percentages for the performance of any duty or the doing of any act, or the service of any process, in civil actions and proceedings, as are then provided and allowed by law for the performance of like duties, the doing of like acts, or the service of like process by the coroners of said counties. In the county of New York, when the terms of office of the coroners of that county expire, the duties, powers, liabilities of such coroners in that county shall appertain to and be vested in the city chamberlain of the city of New York, who shall be entitled to receive the same fees and percentages for the performance of any duty, or the doing of any act, or the service of any process in said actions and proceedings, as are then prescribed and allowed by law for the performance of such duty or the doing of such act, or the service of such process by the coroners of that county.

§ 3. When and as soon as the respective terms of office of the coroners in any county shall expire, the district attorney of such county shall by an instrument in writing, which shall be filed in the office of the county clerk of said county, appoint one physician, duly licensed and registered and of not less than three years professional standing, for every forty thousand of the population of said county, according to the then latest State enumeration of its inhabitants, and in counties having less than forty thousand inhabitants according to said enumeration, he shall

appoint one such physician, who when so appointed shall be designated and known as the medico-legal officer of such county, and each of said medico-legal officers shall hold his office during the pleasure of the district attorney of his county. In counties having more than one such medico-legal officer, the district attorney of such county shall by an instrument in writing, to be filed in the office of the county clerk of such county, divide said county into districts containing as nearly as may be an equal number of inhabitants, and shall assign one medico-legal officer to duty in each of said districts, and may, from time to time, by an instrument in writing filed as aforesaid, change the boundaries of any such district or reassign any medico-legal officer from one such district to another, as said district attorney may deem best for the public interest.

§ 4. It shall be the duty of every physician, and of every peace officer, and of all other persons, to report immediately to the medico-legal officer of the district where the same occurs, every case of sudden, accidental, violent or other death, under suspicious circumstances, occurring within the district and the facts and circumstances attending the same. The failure of any physician or of any peace officer, or the wilful neglect of any other person to immediately make such report to said medico-legal officer, shall be a criminal misdemeanor and punishable accordingly. No statute prohibiting the disclosure of facts learned by a physician in the performance of his professional duties shall, in any way, prohibit or restrict his reporting said facts and circumstances as aforesaid, or his testifying in reference to said death or said facts and circumstances, when his testimony shall be required upon any investigation hereinafter mentioned.

§ 5. Said medico-legal officer shall, with or without the order of the district attorney of his county, promptly and fully investigate in his own district and with such order promptly and fully investigate in any other district of his county, all cases of sudden, accidental, violent or other death under suspicious circumstances. He shall also, upon the written order of the district attorney, perform any autopsy, or any post-mortem examination which such district attorney may deem necessary in said cases. Such medico-legal officer shall also in such cases preserve with care, and

turn over to such persons or officers as may be entitled to the custody thereof, all property found upon the bodies of, or in the possession of, any person whose sudden, accidental, violent or other death under suspicious circumstances he may investigate as aforesaid. The district attorney of each county and said medico-legal officer shall, in all such cases, have full power and authority to issue subpoenas for the attendance of witnesses, and orders for the production of papers, books, or things before any police magistrate of their counties, and such magistrates may enforce the attendance of witnesses upon such subpoenas, and the production of papers, books and things before him upon such orders, and may punish any disobedience thereof, or any refusal to answer any proper question upon any investigation herein mentioned, or any disorderly or contemptuous behavior committed in his presence by any person therein, in the same manner and to the same extent as justices of the peace acting in criminal cases. Said subpoenas and orders shall be executed by any peace officer of this State to whom the same shall be delivered, and such peace officer shall upon a certificate of the district attorney or of the said medico-legal examiner issuing any such subpoena or order, auditing and allowing the same, be entitled to receive for his services in executing such subpoenas or orders, the same fees and mileage, as for like services in criminal cases of and from the county of such district attorney or medico-legal officer. In every case of sudden, accidental, violent or other death under suspicious circumstances, investigated by any medico-legal officer, he shall immediately notify in writing the district attorney of his county thereof, and shall, with all convenient speed make, sign and file in the office of the county clerk of his county his findings of fact and report as to the cause of such death, and as to whether any person is criminally responsible therefor; and if he finds and reports that any person is so responsible, he shall deliver to the district attorney of his county a duplicate of such findings and report. Said district attorney shall, in case any such death occurs and it appears probable that any person is criminally responsible therefor, with or without receiving any notice thereof, or any such finding or report, proceed before any police magistrate of his county to investigate the cause thereof, and as to

who may be criminally liable for causing such death, and upon such investigation such magistrate shall have the same powers and duties as may be provided by law in the case of a criminal information laid before him upon a charge of felony, and he may, upon the application of the said district attorney or of any such medico-legal officer, or of any peace officer of the State, issue his warrant for the arrest of any person whom said magistrate shall have probable cause to believe to be so criminally liable, which said warrant shall be executed by any peace officer of this State in the like manner as is provided by law, in the case of warrants for the crime of felony issued by any such police magistrate. Said magistrate, upon any such investigation, shall, if he have probable cause to believe that any person is criminally liable for causing the death of another, or of aiding or abetting therein, issue a commitment, in the same form and manner as in the case of a charge of felony pending before him, committing such person to the county jail of his county to await the action of the grand jury of such county, which commitment shall be executed by any peace officer of this State, as hereinbefore provided. Nothing herein contained shall, however, be deemed to permit any person so arrested to waive any investigation at such examination, but the same shall proceed before such police magistrate until said district attorney shall close the same. Peace officers executing any such warrant or commitment shall be entitled to receive the same fees and mileage therefor as for like services in criminal cases, which, when audited and allowed by the certificate of said district attorney, or of such police magistrate, shall be a county charge upon the county where said death so investigated has occurred. Nothing herein contained, however, shall be deemed to authorize the payment of any fees or mileage for serving any subpoenas or executing any orders, warrants or commitments, by a police officer in any of the cities of this State who shall receive a stated salary, other than his actual and necessary expenses in serving or executing the same.

§ 6. The board of supervisors in each of the counties of this State, except in the county of New York, and in said county of New York the board of estimate and apportionment of the city of New York, shall, after consultation with the district attorney of their

county, and before the appointment of any medico-legal officer in their county, fix the compensation of each of the medico-legal officers of their county, and may from time to time refix and alter the same as to future services, but not as to past services, performed by such medico-legal officers. Such compensation may be fixed as an annual salary or by stated fees for actual services rendered in each of said counties. In case the fee system is adopted, the fees for each examination when no autopsy or post-mortem examination is made, shall be not less than five nor more than twenty dollars, and where an autopsy or post-mortem examination is ordered by the district attorney, and made by such medico-legal officer as aforesaid, such fee shall not be less than ten nor more than thirty dollars, to be paid upon the certificate of the district attorney of such county, certifying that such services have been rendered by such medico-legal officer. Said boards, in their respective counties, may provide for such stenographic, or clerical assistants to the medico-legal officers therein or to any of them, as said respective boards may deem necessary, and fix their compensation, and refix or alter the same from time to time as to future services, but not as to past services. Said respective boards may also make such provisions for office or other accommodations and for supplies for the said medico-legal officers or any of them, as said boards may deem necessary, and provide for the expenses of maintaining the same.

§ 7. Nothing herein contained shall be deemed to affect the power and authority of any district attorney to employ medical experts before or after the indictment of any person in any criminal case or to affect the compensation to be paid such experts according to law.

§ 8. Whenever any person shall have been arrested as herein provided, or shall have been arrested upon an indictment, upon a charge of being criminally liable for causing the death of another person, or aiding or abetting therein, he shall have the right to be present in person or by counsel, and with not more than two duly licensed and registered physicians, at the time any autopsy or post-mortem examination shall be made as herein provided after his arrest, but neither such person nor his counsel nor any physician so present shall have the right to take any part in

such autopsy or post-mortem examination other than to view the same.

§ 9. In any civil or criminal suit or proceedings in any court of record, the judge of said court may by a written order require one or more of the medico-legal officers within this State, to examine any person, body or thing, in any way connected with the issues in such criminal or civil suit or proceeding, and to testify upon any hearing or trial of such suit or proceeding concerning the same, and may by a certificate in writing fix the compensation to be paid such medico-legal officer or officers, including the necessary expenses thereof, which shall be a charge upon the defeated party and be taxed and allowed in the same manner as costs in the judgment against him in any civil action, or in any order against him in any civil proceedings, and which in any criminal action or proceeding shall be a charge upon the county where such criminal action or proceeding is pending.

§ 10. All laws relating to coroners, coroners' juries, deputy-coroners, coroners' physicians, post-mortem examiners, and all other acts and parts of acts which shall be in any way inconsistent with the terms and provisions of this act, shall so far as the same applies to any of the counties of this State mentioned in this act, be deemed repealed as soon as the district attorney of any such county shall appoint one or more medico-legal examiners for such county, at the time and in the manner hereinbefore provided.

The President: I will appoint as committee on the resolution relative to International Arbitration offered by Mr. Veeder:

W. D. Veeder, Walter S. Logan, Sherman S. Rogers, John I. Gilbert, W. Martin Jones.

The President: Hon. Richard L. Hand will now read his paper entitled "Preparation for the Bar."

Mr. Hand: Mr. President and gentlemen of the association.—The address that I had the honor of delivering to you some time ago and which was

received with such kindness and enthusiasm on your part, was prompted by a selfish motive. I learned many years ago from that epitome of wisdom, Dr. Nott, that if one were anxious to receive some valuable favor from another, he should always approach with his request after a good dinner, and as I feel greatly in need of your indulgence and forgiveness for the trifling character of the paper which I give you to-day, I desire that we should have all the assistance of a good feed and good digestion in aid of my request. The fact is that to advise is so much easier than to give information. In attempting to comply with the request of our honored president that I should read a paper on this occasion, coming to me at a time when the pressure of other duties made preparation impossible, you will not be surprised that I have fallen into a kind of admonitory style of address.

PREPARATION FOR THE BAR.

BY HON. RICHARD L. HAND.

To advise is so much easier than to give information that, in attempting to comply with our honored president's request that I read a paper at this annual meeting, coming to me at a time when the pressure of other duties made any preparation exceedingly difficult, you will not be surprised at my choosing an admonitory form of address.

What I have purposed is not to review different systems of instruction by which young men acquire sufficient knowledge of law to withstand the ordeal of an examination, now, as I understand the situation, by no means perfunctory or easy, but a consideration

rather of certain general principles involved in the preparation of the young lawyer for the duties and responsibilities of his profession.

It will not admit of question that the subject is one of great importance, not only to our own profession, but to the State and to the welfare of all our citizens.

To those of us who are actively engaged in the work of the lawyer is intrusted almost every conceivable interest having relation to the personal and property rights of our fellow citizens. While the bar is, in this country, to so great an extent the approach to official station and political influence that the character of its members has evident and direct connection with the proper administration of State and Federal affairs.

The simple fact that not less than one-half of the members of Congress, including both houses are lawyers and that members of the same profession form so large a proportion of the State Legislatures and occupy so prominent a place in the national and State governments, is entirely sufficient to prove that it cannot but be of vital importance to all our public interests and to the success and perpetuity of our system of government that preparation for the bar should be of the best possible tendency and result.

It is not pessimism to recognize on every hand, in the eager crowding of young men by hundreds — indeed thousands — into our profession and in the deficiency exhibited by so many of these of any adequate conception of what admission to the bar should mean to them, that the recruiting of our ranks is the result of processes far from satisfying and giving little promise of escape from very undesirable not to say serious consequences.

It is not only that callow youth whose intellectual fitness must be measured by the minimum of parrot facility acquired from a skillful "cramming" for a few months, are clothed upon with the solemn recognition of our great court of original jurisdiction as learned in the law and held out to the world as qualified to advise as to the difficulties and present in our courts the rights of litigants, but more and worse than this is the utter absence, among so many of them, of all appreciation of the nature of their duties, the meaning of their responsibilities and privileges, the real purpose of a true lawyer's life. A large proportion of them manifestly look upon admission to the bar as an escape from the care and labor which they recognize as necessary to success in every kind of what they call "business"—as an easy and comfortable way of getting a living with the minimum of effort. As many a weakling, having little relish for the severe competition and constant effort of more active pursuits, finds that he has a call to the ministry, and thus our pulpits become the abode of so much dulness, so these selfish lads seek a place which will authorize them to live upon the labors of better men and enjoy an undeserved respectability.

Another class, still more objectionable because more harmful, are capable, industrious and ambitious, but possessed with that conception of professional success which has its foundation in a miserable worship of cunning and the triumphs of indirection. Their real theory of life is that the world is an egg to be opened — a pigeon to be plucked. That he who gives honest value for what he wins is a dull fool. And, in the belief that the position of a lawyer affords instrumentalities and opportunities for a sort of legal-

ized plunder, they seek that position with eager desire; and, so far as mere information goes, become learned and skillful, by persevering toil, on much the same principles as the chevaliers of Hounslow Heath might have given time, patience and labor to acquire skill with the pistol and in horsemanship; or a pirate to achieve the highest grade of seamanship. After all due allowance for misconceptions, stupid prejudices and ignorance, is there not a certain element of truth in the vulgar idea that no political corruption or business swindle flourishes and grows to really great proportions, but with the consent and assistance of some learned, able and unscrupulous lawyer? Is it not true that many a fallacy of governmental policy is known to be such and could readily be exposed and crushed by the lawyers in official station, yet is nursed and defended, or at least winked at, in the belief that it may serve to promote personal ambition or, at least, cannot be attacked with honest zeal without risk of popularity.

If there be foundation for these impressions, it would seem to follow that any tendency to regard the law as a mere trade, in which the indolent and incompetent can gain support in comparative idleness, endued with a factitious dignity as members of a learned profession and priests in the temple of justice, on the one hand, or as a school of alchemy where the initiated are taught the mystery which transmutes brass into gold, on the other, must be occasion for grave concern and call upon all worthy lawyers—perhaps in an especial degree upon members of this association, which is organized “to elevate the standard of integrity, honor and courtesy in the legal pro-

fession," for serious and earnest efforts toward the correctness of so great evils.

An attempt to suggest something in aid of such effort is the object of this paper.

In this attempt, however, the influences for good which may be available before admission to the bar are the only ones which will be considered. All that is possible in the way of reaching a higher plane of thought and conduct for those already in the profession would doubtless be insignificant in comparison with what may be accomplished with the young and impressible minds of those who are making ready for the time when they expect to take our places.

It would seem to be necessary, as the first step in such a reform, that a distinct and correct idea should be formed of what in fact is the true position of a lawyer in the economy of our civilization. Many attempts have been made to define this, with more or less of success; but the real answer to the question must be found, as it seems to me, in something broader than any conception which is limited to our own profession. The problem of life for a lawyer does not differ in any essential from the same problem for any other. It is a universal problem, which can be limited to nothing less broad than the meaning of life. While it is beyond question that a vast majority of the human family give no thought to this, living on from day to day in an atmosphere of present hopes and needs; having no idea of any aim beyond the accomplishment of their narrow and immediate purposes, or, at all events, present to themselves, for an ultimate aim, only some vague standard of wealth or station, it is none the less evident that such a life, although it may often be quite useful in its

effect upon the sum of human happiness, not infrequently tends to degrade the individual and obstruct the progress of general civilization. At its best it is by no means admirable in itself or satisfying in its results.

✓ The contempt for wealth, so freely expressed in certain schools of thought, is undoubtedly either delusion or hypocrisy. Money is of great value to its possessor. The depreciation of popularity or official position is no less absurd. Our scheme of government—indeed all good government—is founded upon the validity of general confidence in and admiration for individuals. None the less is it apparent to all sane minds that love of wealth *for itself* is a species of idiocy, and love of praise, for praise's sake, as distinguished from that just joy a man may feel in consciousness that he has the evidence of good qualities in the harmonious suffrage of his fellows, is a puerile and contemptible vanity. The delight sometimes found in the mere exercise of power, too, for the sake of its exercise, is animal and brutal.

Doubtless these are commonplace truisms, but I trust their repetition here may assist my thought and therefore be pardonable.

If we are agreed that love of wealth is absurd, that love of praise is contemptible, and love of power is brutal, what remains as a worthy object of living? It would seem, at least in first impression, that all we know of real effort in human lives is directed to the attainment of some of these—wealth, or fame, or power. And is it all worse than useless—mistaken purpose and wasted energy? Is not modern civilization founded upon this pursuit of wealth? Does not all intellectual, as well as physical development have

for its source and support this reaching out for power? Is not every form of heroism, even to martyrdom for righteousness sake, born and nourished in a desire for praise?

Let all this be conceded and a solution of the problem is by no means reached. The "Why?" is as imperative as before. The real and worthy motive, if happily any worthy motive there be, does not yet appear.

To my mind, this ultimate and absolute motive, which rules the world of humanity, builds cities and palaces and temples; traverses seas and girds continents; expresses itself in books and newspapers, in oratory and debate, in music and painting and architecture and all the products of the useful arts; develops religion, jurisprudence and statesmanship; cultivates the grace and beauty of social life; administers justice and governs nations—in a word, the main-spring of all civilization and progress—is an undying impulse to find complacency in and approval of ourselves within ourselves.

It would be manifestly inappropriate to introduce into this discussion any consideration of the sanctions of what is known as religion, whether internal or external; but we conceive it to be an immutable fact that man forever feels himself to be in the presence of a secret tribunal, which is recognized as a tribunal of absolute jurisdiction, before which all thoughts and deeds of life are brought in to judgment. This truth is expressed with great beauty and dignity by Dr. Hickok, in his treatise on "Moral Science" in these words:

"There is an awful sanctuary in every immortal spirit and man needs nothing more than to exclude

all else and stand alone before himself to be made conscious of an authority he can neither dethrone nor delude. From its approbation comes self-respect; from its disapprobation, self-contempt. A stern behest is ever upon him that he do nothing to degrade the real dignity of his spiritual being. He is a law to himself, and has both judge and executioner within him and inseparable from him."

And hence it is, as I firmly believe, that no man has yet sacrificed his life to the pursuit of wealth or praise or power, but has found the fruit of success only Dead Sea apples, deluding with a fair promise of outward beauty, but bitter ashes in the taste — has lived and died in hopeless discontent with himself and all he has accomplished, self-condemned and fully conscious that life was, with him, a failure. Doubtless there are times with such men, when they find happiness in the realization of their plans and success gives great joy; but the balance is overwhelmingly on the side of that misery which ever accompanies the sense of failure — the crushing burden of self-contempt. They know that their birthright of honor and true success has been exchanged — freely and eagerly exchanged — for a mess of pottage.

How then shall this self-approval be securely gained? The answer appears obvious and unmistakable. There is but one source of content, but one measure of success for any life, and that is found in the bestowal of our best in some form of work which may benefit humanity. And humanity does not mean some vague abstraction of a world at large, but men or communities within our reach and subject, more or less, to our personal influence. If these are profited by our labors, we may feel entirely at our

ease concerning our duty to the human race and to posterity.

This philosophy of bestowal is the keynote of all true success. Strange that it is so little understood, when all nature—every page of the record of science—shows but the infinite energy unceasingly occupied with this one activity; when all men really admire and reverence in human conduct—maternal devotion, paternal provision, the soldier's heroism, the priest's self-denial, the statesman's patriotic zeal, the merchant's untiring care, the lawyer's absorption of himself in his client's welfare—is but expression of its meaning in the affairs of life. The highest and truest happiness consists in giving, and no such noble and inexpressible joy is known to our experience as we find in those phases of our life in which we precisely and absolutely give our most strenuous efforts, our severest toil—our very selves—to the welfare or happiness of others. There indeed have we pure content and satisfaction, untouched by any stain of selfishness or loss of dignity.

It cannot be doubted that the common experience of our own profession involves more of this bestowal of our best for others than is the case with any other class of men, unless it be our brethren of the medical faculty. Certainly it is upon this theory that the very existence of our calling rests. The old Roman relation, of absolute dependence, on the part of the client, and sacred duty to protect, advise and to represent in all litigation, on the part of the patron, had hardly more of trust and confidence—aye, dependence and protection—than is found in that of attorney and client, within its legitimate scope, to-day. The very names—*attorney*, signifying one to whom

another turns, or commits his rights and interests, and *client*, who hears, follows, depends — are expressive of this fact. And how could any human institution involve a more unselfish connection between man and man than this which binds the lawyer to his client. His labor, his solicitude, his powers, his successes are not for himself, but for another. It may be said, and it is the vulgar belief, that the lawyer does all this for selfish ends. Undoubtedly the lawyer does sometimes, as well as other men, sacrifice his life for wealth or praise or power; and when he does this, his life also is a failure and his reward, however he may flaunt its visible results, is secret discontent and shame. But manifestly his profession exposes him, least of all, to this error; and they know little of the profession who fail to understand with what absolute self-extinction the true lawyer merges his interests, his feelings, his hopes and fears in those of his client — how often he feels an unfortunate issue of the cause, although it touches neither his purse nor his reputation in any appreciable degree, far more keenly than does the client himself. For him has burned the midnight oil. For him the tortured brain, through weary hours of study, thought and watchful care has spent its utmost force; for him all resources of skill, tact, judgment, and speech have been expended, with self-forgetting zeal — very rarely measured out in any proportion to the expected fee — very often bestowed with no hope of reward, except that which is found in the very act of lavish bestowal.

It is not necessary, I presume, that I should disclaim the belief that a lawyer should desire no pecuniary return for his professional labors. That will doubtless go without saying. That he is entitled, if

faithful, to a very high rate of compensation, in accordance with the measure of his recognized abilities and the magnitude of the interest for which he has been responsible, is easily made clear. To the making of a really good lawyer go years of preliminary schooling, years of instruction in his peculiar field of study, a wide general knowledge of literature, science and affairs, some considerable capital represented by his office and its outfit and his library, and the untiring devotion of his time and energies to the service of his clients. The ability to successfully conduct the affairs entrusted to his skill, to-day is the result of all the study and experience of his whole past life. Such services are entitled to very large pecuniary reward. While the care which he may properly bestow upon the business side of his work towards accumulating some estate, may well be but another form of that same bestowal of himself for the welfare of others which is most honorable and worthy. The happiness of his domestic life, the education of his children, the interests of his own community, all these may be greatly promoted by his wealth, if he may acquire wealth. But the indifference of our profession to wealth is so marked as to be almost culpable, and is shown by the fact that, with great opportunities and often large income, it is one of the most rare events for a lawyer to become, even in a moderate degree, a man of wealth.

In all this expression of the general principles applicable to a lawyer's life, I have felt that it would be nothing less than impertinence to urge his personal integrity. This is absolutely unquestioned among all classes of men. No one hesitates to rely upon it with as perfect confidence as he counts upon

the love of his mother. And this is but another proof of a real, though tacit and blind recognition of the unselfishness and inbred zeal for the welfare of others which is characteristic of the legal profession. Men are heard to repeat their threadbare jokes — so outworn and imbecile that they can provoke neither smile nor frown. But no man hesitates to trust his life, his fortune and his sacred honor under the shelter of the first attorney's sign he sees upon the street, without dreaming of the possibility of treachery or dishonesty. This all men know. Words can add nothing to the fact.

Under what conditions then can these crowds of ill informed young men, who are hurrying into the profession with so little and such mistaken ideas of its real character, be reduced to reasonable numbers by some adequate process of selection, or made more fit to enter it.

There seems to be no room for doubt that the number of them is too great. The demand cannot equal this supply; and a large portion of them must soon be stranded on some desert coast, where little better than starvation will be their fate.

It would seem that all which can reasonably be required of time and study is now provided for by our system, and we may expect that the faithfulness of our admirable Board of Examiners now gives all check upon the number of admissions consistent with a proper opportunity for entering upon our profession. If I am not misinformed, however, the intent of our requirement of clerkship is not met in practice. Certainly a perfunctory enrollment of students in the offices of practicing attorneys, which is contemporaneous with the time of a law school course, can hardly

be a compliance with the spirit of our system or give the results aimed at. The term of clerkship is undoubtedly intended to secure some practical familiarity with legal business; and it will hardly be claimed that mere occupancy of a chair in a lawyer's office, where the student is, in fact, preparing himself for the work of his law school, will be of much use in this direction. In effect, it cuts down the time for preparation also and thus, I think, unduly facilitates admission. Perhaps a compliance with the provisions of the rules as to duplicating time prevents, to some extent, this evil. But I understand that a college graduate may fulfil all requirements as to time within a period of nineteen months. If any real fitness for the position of an attorney is to be demanded, this would seem a very inadequate period. However this may be, does the provision for "serving a regular clerkship in the office of a practicing attorney" mean much of anything in actual experience? What is he required or expected to do in our offices, as a matter of fact? Is it not, in the great majority of cases, entirely perfunctory? And if so, would it not be well if the rules were to contain some definition of what shall constitute this "serving a regular clerkship?"

Upon the main question, however, are we not well aware that a young man may comply with the rules, literally and fully, without receiving the slightest instruction in the ethics of our profession and without having felt the personal influence for good of any of its members. Is there anything in his course of study which necessarily disabuses his mind of those false conceptions of a lawyer's life of which we have been speaking? I think not.

How then shall we give the required training in this respect?

It is doubtless true that, in any of our good law schools, the students are under the best influences in this very direction. Here they are set apart, during a certain time, for the purposes of study. No exhibition of selfishness or want of principle in professional conduct is presented to them in any concrete exhibition. If brought to their attention at all, it is by the abstraction of some reported case or general discussion, and only to hold it up to contempt. They meet from day to day their instructors, knowing them, as a rule, only as instructors, and these are scholarly gentlemen, holding and expressing elevated views of professional honor. The entire atmosphere is one in which the best motives are urged upon them and the highest standards are offered for their admiration. In such a pure and just environment, their ideas of professional duty and responsibility are formed, and, so far, are correctly formed.

But these are necessarily abstract ideas and are acquired in an artificial atmosphere. When they become a thing of the past and these young men are brought face to face with actual work, it will not always be found that they have made such profound and lasting impressions as to withstand the influence of some, to them, manifest success, which they recognize as based upon selfish if not unprincipled conduct.

While to those students who have had no such privileges — who have simply entered an office and pursued the study of the law from books, hardly conscious of the busy movement of professional activity about them, nothing is found to supply their place. These "clerks" go their way for the allotted time and,

having committed no glaring breach of law or decency, receive a certificate of their clerkship and good moral character from a lawyer, who may barely know them by sight. Whatever of moral obliquity as to the purpose of our profession or its ethical standards may have fallen upon them in any way they bring into our professional life with their admission to the bar, and have never had even a suggestion, perhaps, that there is another — much less that there is a truer and better view of the calling which they propose to make the business of their lives.

One significant fact confronts us, gentlemen, which is that every one of these candidates for admission to our ranks is brought into personal relations and for a considerable time — in many cases for three years — with some one of us. The very theory of our system brings upon us, in all justice and fairness, an unmistakable and by no means trifling responsibility. We are supposed to know them, to have some real judgment as to their character and familiarity with their progress and attainments. We consent to call them our clerks. We formally and deliberately assure the court, and the general public also in that very act, that they have served a regular clerkship for one, two or even three years with us. If our conduct is honorable, our standards noble, it cannot be that any young man could really be under our personal influence for months or years and remain blind to what is honorable and noble in professional life.

We will assume, of course, that in all these things we are everything that we should be. But will we have the hardihood to pretend to any real discharge, in our relations with these young students, of our duty — a duty which is not only to them but to our

brethren of the bar — aye to the Courts, to the public and to the science of the Law. I fear that many of us must plead guilty. And if so, let us no longer profess our surprise at the crudeness and error so often found among young members of our profession, in their conceptions of duty or obligation. It is not extravagant to say that if all of the lawyers with whom students are now serving clerkships were to attempt a faithful and honest discharge of that duty — and I cannot find any escape from the conviction that it is a duty — from this time on, the improvement in the tone of our profession would be immediate and manifest, and we should soon cease to regret the increase in its membership. It would inevitably react upon ourselves and make more real and vivid to us, also, the demands of professional honor. While many who are unfit to enter the temple would be turned back, and those who did enter would come in with just minds and worthy purposes. If we can make sure that the quality is satisfactory, we need have but little concern about the quantity.

I believe the remedy is with ourselves, and cannot question that it is a plain duty to apply it. If we do so, earnestly and faithfully, reward will come to us in fullest measure.

Shall we not make the attempt, then, to direct aright such of these young men as we may each influence, to give them a true conception of our position in the world, with its high privileges and just aims. Let us see to it, so far as in us lies, that no candidate shall seek admittance to our ranks with the base idea that a lawyer may ever profane the temple of justice with cunning traps and sophistries, or win success by base devices and tortious ways; may incite litigation,

assist fraud and bully ignorance and weakness, to be hailed by the vulgar crowd as *smart* and swell his income. But that the deepest motive of his heart may be that his time, thought, labor — all wealth of learning, power of logic and command of language — be given to perfecting that noble science of the law, upon which must rest security of property; enjoyment of life, liberty and the pursuit of happiness; the very foundation of social progress. That he may keep ever before him, as his aim and highest reward, the purpose to give, by his life and labor, some real aid in developing this noblest of human creations, which secures the greatest good to the greatest number; reconciles general safety with the largest personal liberty; founded upon the teachings of inspiration; throned in the majesty of justice; possessing within itself the wisdom of all human experience, and holding its seat unmoved and steadfast amid the passion, greed and crime of every fleeting hour.

Mr. Smith: Mr. President, if in order, I move that a vote of thanks of this association be extended to Mr. Hand for the able, thoughtful and timely paper with which he has favored us. Motion seconded. (Carried.)

The President: "What method should be adopted in the proposed revision of the Code of Procedure, and how can the work be carried on so as to give the best results?" is the question before the association. After the papers which have been prepared, have been read, a general discussion will be in order. The first paper will be read by Hon. William B. Hornblower.

PAPER BY HON. WILLIAM B. HORNBLOWER.

Mr. President and gentlemen.—If I were to follow the example of Brother Hand, I fear you would expect me to give as able, eloquent and interesting a paper as he has given us. Therefore I shall not apologize and you will not be disappointed, as we were in his paper, for what opened with an apology needed none. I will say, however, I think the association owes me an apology, because I came here under the distinct assurance that the Hon. William H. Rumsey was to deliver an address on this subject and that my remarks would be merely supplementary to what should be said by him.

The importance of the subject to the profession and to the public furnishes the only excuse for any remarks at all upon my part.

When the codification of the law of practice was first proposed in this State, many delusions were cherished by its advocates. It was, among other things, fondly imagined and openly proclaimed, that by sweeping away the cumbersome and technical forms of procedure of the common law, and especially by the abolition of forms of action, and the assimilation of law and equity practice, the layman would be able to draw his own pleadings and fight his own battles in the Courts. Much good has undoubtedly resulted from the reformed procedure; but this particular good has certainly not resulted. The Code of Procedure has introduced a rigid system of statutory rules into our practice, which to a large extent fetter the discretion of the courts, and on which has been built up an elaborate structure of judicial interpretation and construction which has made practice almost

a science by itself. The Code of Civil Procedure has enlarged, amplified and made still more rigid these statutory rules, so that to-day the three gigantic volumes of Bliss' Annotated Code appall the legal mind and fill the lay mind with awe and dismay.

"Every man his own lawyer," was the watchword when the Constitution of 1846 was adopted and when the Code of Procedure was authorized. Every lawyer his own client might well be said to be the watchword of to-day, when we have to puzzle our way through sections of the Code as construed by courts of first instance, by General Terms and by the court of last resort.

Nevertheless, Code practice is in many respects an improvement on the old system. We cannot go back to the old system if we would and we would not if we could.

It is a curious commentary, however, on the expectations of the ardent reformers of 1846 to '49, that the especial blessing they anticipated from their pet reform in procedure — the bringing home of the practice of law to the masses — has not materialized but has been ludicrously travestied by the result. So it is with all law reforms — they accomplish good, but not the particular good anticipated.

Take, for example, the assimilation of law and equity. Prof. Pomeroy, one of the ablest jurists this country ever produced, and one of the most ardent champions of the reformed procedure, frankly admits in the preface to his *Equity Jurisprudence*, that instead of liberalizing the common law side of jurisprudence, it has led to "a weakening, decrease, or disregard of equitable principles in the administration of justice."

So, the reformed procedure, instead of simplifying practice, has in the long run made it more technical.

The principal objections to our present Code of Civil Procedure are its great bulk, its vast mass of detail, and its dealing with many matters of substantive law, which have no place in a Code of Procedure.

My first notion of the best method of revising this Brobdingnagian conglomeration of heterogeneous rules of law and practice was to abolish it out of hand; substitute in its place a few general provisions as to pleading and procedure; authorize the courts to regulate by rules all other matters of practice; and relegate to other portions of the statutes the provisions of substantive law.

Reflection, however, has satisfied me that this radical course would be unwise and inexpedient. This body of statutory rules, built up with so much care, although not with the most skilfull workmanship, ought not to be ruthlessly destroyed. It has become the chart of our professional navigation in practice; many of its provisions have been judicially construed by the courts, and I am constrained to the conclusion that to abolish it out of hand would be a grave mistake.

The work of revision should be placed in the hands of men who can give and who shall be required to give their entire time to this business. It cannot be done in fragmentary intervals of an active professional practice. Men who are to do the work should have salaries equal to those of the Justices of the Supreme Court in the State at large and they should be prohibited from practicing law during their term of office as Commissioners.

The committee on law reform have pointed out that

the present commissioners on revision cannot undertake this additional work. The work which they have on hand in revising the General Statutes of the State is quite enough to occupy their attention for some time to come. There should be special commissioners appointed, for this special work, and they should be required to give up all practice as judges are required. They should have two or three years for the sole object of revising our Code of Civil Procedure. If I had my way I would give them the salary of a Justice of the Supreme Court.

I regret to say that the Commissioners appointed under the Act of 1895, to report on the question of code revision, who I understand are the same gentlemen who are the statute revisers, have made a recommendation on the general subject which strikes me as being the most unwise possible, and is making the subject of revision one of terrible uncertainty. They suggest that instead of reducing the Code, instead of simplifying the Code, instead of taking out of the Code the heterogeneous matters injected into it relating to rights and not to remedies, that we should inject into it a number of others. I find on pages 67 to 69 of their report the following as to what should be put into the Code. They say there ought to be put in the rights and liabilities of executors and administrators, actions by and against them, the rights of marriage and divorce, actions for the detention of canal boats, deposits of wills for safe keeping. Why "marriage and divorce" and "detention of canal boats" should be put in juxtaposition, I don't understand.—Exemptions of cemetery lands from execution, corporations not to build sewer, etc., etc. I have a very high respect for the ability of these distinguished

gentlemen, but if that is their idea of revising and simplifying the Code of Civil Procedure, I for one trust we shall stop right here.

The portions of the Code which deal with substantive law should be eliminated from the Code and placed in those portions of the statute law where they properly belong.

Much of the prolixity of the Code consists in provisions prescribing different periods of time and different modes of service for different proceedings in Court. A few general provisions regulating the time and mode of service of papers would, I think, dispense with many sections of the Code. General provisions should be substituted everywhere, as far as practicable, for the special provisions made for separate kinds of procedures. Thus the provisions for undertaking on arrest, attachment and injunction, and the provisions for a motion to vacate each one of these provisional remedies are needlessly duplicated and triplicated. A few sections could be made to apply to undertakings and motions to vacate in all cases of provisional remedies. So as to provisions for appeals to the various Courts. They could all be assimilated. Elaborate statements as to what shall be contained in particular papers should be stricken out. The process of simplification, harmonizing and unifying, would reduce the bulk of the Code enormously. The abolition of our Superior City Courts has furnished an aid to this process. Striking out matters of mere detail would also relieve us of much of the present congested condition of the code.

There is altogether too much minuteness in this Code. It was built up under a microscope. You will, perhaps, recall that the commissioners went

through the old Code and whenever they found the phrase "single judge" they struck that out and put in "one judge" and the note by the commissioners said the phrase "single judge" would seem to exclude married judges. I confess I admire the precision with which the commissioners went through the old Code and eliminated what they considered ambiguous phrases, but these things can be carried too far. When we get into Court on a motion to vacate an attachment, or an order of arrest, or an order for examination before trial, five out of six of the orders we obtain are set aside, because they do not state something that the Code says they should state; for instance, we have failed to put in the address of the attorneys. All that is procedure run mad.

I would suggest, also, that the provisions as to arrest and execution against the person should be stricken from the Code. They have been so altered by the Legislature that they have become practically obsolete as a mode of collecting a claim, and they now remain on the Statute as relics of a past age. As punitive measures they are ineffective. If a Grand Jury of a County cannot be got to indict a man then we should not be allowed to go to a judge on affidavits. The process is frequently used for extorting money and for blackmail.

An amendment ought to go into the Code, and I know I am here not in accord with a large portion of the members of the Association — limiting the jurisdiction of the Court of Appeals. Something must be done. The Constitution of 1894 has wholly failed to relieve the pressure on that Court. We are two years behind in the work of the Court. Cases are accumulating on the docket at an enormous rate, and three

years from now we shall be still further off, and a generation from now the Court will be eight or ten years behind. The Committee on Law Reform recommends that a Constitutional Amendment be adopted enlarging the Court. I dissent from that report *in toto*. Twice that question has been discussed at length before a body of lawyers in this State. The commission appointed by the Governor in 1890 to propose amendments to the Judiciary Article debated this question at great length and they came to the conclusion by a substantial majority vote, that it would be injurious and ruinous to the jurisprudence of this State to enlarge this Court or make it a double-headed Court, or increase the mere working capacity without increasing its brain. The second occasion it was fully discussed was before this last Convention in 1894, and the convention through its Judiciary Committee reported back substantially the scheme of the Commission of 1890 which was rejected by the Bar of the State and by the Legislature at that time; showing that when lawyers get together and reflect they conclude that we ought not to dilute the Court of Appeals. I for one am in favor of a very radical measure. I believe if we put into the Code a provision that all cases which are affirmed unanimously by the Appellate Division should end there unless the case involves a constitutional question or a question of jurisdiction, or is certified up. Thus we shall retain a symmetrical body of jurisprudence by having a small, homogeneous Court of Last Resort, sitting together in all cases, instead of a large, unwieldy tribunal, sitting in "blocks of five," with a trusty clerk to "see that none of them get away."

The co-operation of the various Bar Associations

throughout the State should be actively and earnestly sought by the Commissioners and their proposed revision should be submitted to these bodies in such shape and at such times as will enable those bodies to carefully consider and criticize before the work of the Commission is submitted to the Legislature. These general principles applicable to the work of revision, seem to me all that can probably be laid down in advance. Everything depends upon the character of the Commissioners. There is always great danger in any work of this kind that we may make a step backward instead of a step forward. On general principles it is best "to let well enough alone," unless we are very sure that we are substituting for the "well enough" a distinctly better thing. Undue haste is especially to be reprehended. We can afford to wait and bear the ills we know, rather than plunge ahead into ills that we know not of.

Mr. Elbridge L. Adams: Gentlemen — In view of the recent events I should possibly have hesitated to write a paper upon the subject which I have chosen, but I am led to believe from the reception which you gave to the learned exposition of the Monroe Doctrine last evening, that you are not such extreme jingoists that you will not listen to a paper on Civil Procedure in England.

PAPER OF ELBRIDGE L. ADAMS ON CIVIL
PROCEDURE IN ENGLAND.

At the last annual meeting of this association, there was adopted a resolution calling upon the legislature to make provision for a careful and thorough examination of the codes of procedure of this and other States, including the so-called practice acts in force in this country and abroad, and the rules of court adopted in connection therewith, and to report in what respects the civil procedure in the courts of this state can be revised, condensed and simplified.

In accordance with this resolution the legislature directed the Governor to appoint three members of the bar of this State to make such examination, and the Governor, in obedience to such direction, appointed the three commissioners of statutory revision, as commissioners of code revision.

Learning from this commission that it would be unable, from lack of time, to make, save in the most casual way, the examination of the Codes and practice acts and rules of court affecting procedure in other states and countries as contemplated by the legislature, and believing it to be quite important that at least the practice act of the country from which we have derived so much of our system of jurisprudence, should be searched for any treasure which would be of use in the proposed revision of our code, I have undertaken to examine the procedure in vogue in England and in some measure to compare it with our own.

I have said that it was important to make this examination, because it is made quite evident by the elaborate statistics presented to the American Bar

Association at its meeting in Detroit last summer, that we have little hope for relief in the adoption of any of the systems of procedure in force in this country. When we are told that forty-eight per cent of all the points passed upon by the courts of this country, in the reported cases, involve questions of practice, not affecting the merits; in other words, that nearly one-half of the questions decided by our courts are questions arising out of disputes as to the proper method of bringing before the court the merits involved in the original differences, and are in no way decisive of the substantive rights of the parties in litigation; when we are confronted in addition, with carefully compiled figures which show that thirty-eight out of every hundred cases in the courts of appellate jurisdiction of this country are reversed upon questions of procedure, and that New York makes no better showing in this respect than Texas, or Nebraska, but is just about up with the average, we may be certain there is something radically wrong with the system which makes such a state of affairs possible, or else as the gentleman who has compiled these most interesting and most discouraging statistics prefers to conclude with the profession which pretends to practice that system.

While it is doubtless quite true that ignorant practitioners are responsible for more blunders than those who are well grounded, it is also probably true that five-sixths of the litigated cases are conducted by the intelligent portion of the profession. Where is the lawyer who will dare to assert that the Code of Civil Procedure has no fears for him? It is the intelligent members of the profession who are clamoring for a reform in our practice.

If the trouble is with the system, it is not apparent that we are to remedy it materially by borrowing from our neighbors. Kansas and Iowa have elaborate codes of civil procedure, which are said to be model specimens of their kind, but that it is a bad kind, witness the tell-tale figures: 33 per cent and 34 per cent of all cases in the appellate courts of those States respectively, during the year 1894-5, were reversed on points of practice.

Nor is the situation much better in the states where the common law practice still prevails. In Massachusetts during the same period only 26 per cent of all cases were reversed on points of practice, but in New Jersey, another common law State, the per centage was 40, and the average in the 19 common law States is 33 per cent.

The fact is that in all our systems of procedure, code or common law, there is too much of formality, too much of technicality, too much of inelasticity. As Lord Coleridge once said, the science of statement is deemed of more importance than the substance of right.

I have been unable to procure any figures which will show the efficiency of the reformed English system of procedure as compared with the system in vogue in this country. That it is not perfect, is evidenced, perhaps, by the remarks of Mr. J. Wreford Budd, president of the Incorporated Law Society, in his address to the Society at Liverpool last Summer. After commending certain features of the new practice, he said: "It is impossible for us to maintain that our system merits the approval of those for whom it is designed, the litigants themselves. The whole manner in which commercial business is conducted in

this country has changed enormously of late, and men of business are accustomed to transact their business rapidly and expect to have their ordinary business transactions settled up expeditiously. Our proceedings are not "up to date." * * * Our system which we call procedure is a far too highly polished and complicated machine for the requirements of every day cases. It is a terrible weapon in the hands of an unscrupulous litigant. In theory it is all simple enough; but we know that, except in cases which the courts consider to come under order XIV, a defendant who has in reality no title of a defense, can keep his adversary months, and in some cases and under favorable circumstances years, from getting a judgment, and that either party can, for an undue length of time, put off the inevitable moment of coming face to face with his adversary before the court."

It is perhaps too much to expect that the wit of man will ever devise a method of determining disputes which will meet the unqualified approval of litigants especially of those of them who happen to be on the losing side, but that the English method is far in advance of our own, will, I think, be apparent when we come to compare the two. That it is a great improvement on what preceded it, there can be no question.

Lord Chancellor Cairne, perhaps the ablest English Judge of this generation, in a speech in the House of Lords in 1876, said: "The great change effected by the Judicature Acts came into operation on the first of November last, and I am bound to say that every day which has passed has satisfied me of the wisdom of Parliament in introducing that great scheme. So far as I can observe the working of the Judicature

Acts, they have been in the highest degree satisfactory. There has been found in their working a degree of flexibility, of simplicity, of uniformity and of economy of judicial time which has secured the best results."

And the late Right Hon. Sir Alexander James Edmund Cockburn, Lord Chief Justice of England; speaking of the Judicature Acts on the occasion of being presented with the freedom of the City of London said: "I am happy to have this opportunity of saying it thus publicly as the result of my own experience during the past few months, that this legislation has affected very great and salutary improvements in the condition of English law. It has in many respects brought the old maxims of the common law into harmony with the large and more liberal principles of equity. It has improved our procedure, simplified and improved it."

The original Supreme Court of Judicature Act was passed in 1873 and went into effect November 1, 1875. By it the whole judicial system of England was revolutionized. The several courts of common law and chancery were consolidated into one Supreme Court of Judicature. The Supreme Court was divided into two permanent divisions — The High Court of Justice having original jurisdiction and the Court of Appeal having appellate jurisdiction.

The act contains provisions concerning the jurisdiction, sittings and distribution of business, officers, etc., of the courts — and it also declares the law to be thereafter administered as to administration of assets of insolvent estates, assignments, mandamus, injunctions and receivers and custody of infants. In all cases in which there is any conflict or variance be-

tween the rules of equity and the rules of the common law with reference to the same matter, the act declares that the rules of equity shall prevail.

In 1875 the act was considerably amended. By section 16 of the act of 1875, it was provided that the rules of court contained in the first schedule to the act, should come into operation at the commencement of the act, and as to all matters to which they shall extend shall thenceforth regulate the proceedings in the High Court of Justice and the Court of Appeal.

The original act was still further amended by the act of 1881, in which it is provided (s. 16), that the power of making rules shall thenceforth be vested in and exercised by any five or more of the following persons of whom the Lord Chancellor shall be one, namely, the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the President of the Probate, Divorce and Admiralty Division of the High Court of Justice, and four other judges of the Supreme Court of Judicature to be from time to time appointed for the purpose by the Lord Chancellor. Accordingly, in 1883, the Chancellor, the Chief Justice, the Master of the Rolls and five other judges of the Supreme Court, made and promulgated the rules of the Supreme Court of 1883, which superseded the rules contained in the first schedule to the Act of 1875 and all the rules subsequently made.

These rules, with a few unimportant amendments, are the rules governing procedure in the Supreme Court of Judicature to-day. They are 1,011 in number and are divided into 72 orders or chapters. Printed without annotations, they would be contained in a volume one-third the size of our pocket codes. They cover very nearly the same ground that our code

does. There are orders respecting the form and commencement of action, service of summons, parties, joinder of cause of action, pleading, trial, judgment, execution, appeal, provisional remedies, costs, etc. There are no orders touching the statute of limitations, evidence (except as to its production) jurors, or justices courts. Appended to the rules are forms for writs, pleadings, orders and other papers.

The form in which the English law of procedure is stated challenges our attention. Rules of court are not unfamiliar to us. We have our Supreme Court rules, but they are supplemental to the Code of Civil Procedure. There is no apparent reason why we should have both — why we should, for instance, have to go to the Code to ascertain the manner of proving service of a summons on a corporation, and to the rules to learn how to make proof of service of a summons in divorce cases; or why the Code should prescribe the time of a notice of motion and the rules the time in which to make a case and exceptions.

In England, as has been stated, all provisions relating to practice are to be found in the Rules of Court. This, it seems to me, is the better and more logical system. The courts and not the legislature should regulate judicial proceedings. It is no more within the province of the legislature to lay down rules for the administration of justice within the courts of the State, than it is within the jurisdiction of the court to make rules of order for the legislature.

If our law of procedure could be put beyond the reach of the legislature, there would not be so much tinkering and amending to meet the exigencies of some particular case or individual. I know it has been claimed by some of the friends of the Code of Civil

Procedure, that that portion of the Code which is frequently used, has been very slightly amended, but there are enough amendments passed at every session of the legislature to make it unsafe to rely upon a code more than a year old.

Next to the form of the English law of practice, the most noticeable feature of it is the wide discretion given to the courts and judges. That very objectionable word "must" which Mr. Throop saw fit to use so freely in his code is seldom found in the English rules of court, but gives way to the less mandatory "shall" or oftener to the permissive "may." Nearly every rule is coupled with the provision that the court or judge may in the interests of justice or convenience, make such an order as shall be deemed just, and on such terms as are proper. This, it will be seen is radically different in theory from the American idea, which is that judges shall be limited in their discretion within the four corners of a statute. Whether that is because the English people have more confidence in their judges than Americans repose in theirs, I cannot say. As is well known the elective judiciary does not obtain in England. The English judges are appointed by the Queen, upon the advice of the Lord Chancellor and the Lord Chief Justice. They hold office for life. They are required to be qualified by ten years' standing as barristers. Each of the ordinary justices of the Supreme Court of Judicature receives a salary of £5,000 a year, and is allowed two private secretaries. After serving fifteen years, or at any time, after becoming disabled, they may retire with a pension for life, which, I believe, is half of the salary. The English judges are thus put beyond the reach of party politics. If it be true that

Americans have less confidence in their judges than they should have, they may have something to learn from their kindred across the sea.

The object of the English rules seems to be to provide the best and quickest and simplest method of bringing before the court, the merits involved in any particular case, and not as has been said of our code by a distinguished member of this Association "to prevent courts from doing justice." There has been no "muddle-headed ingenuity expended to make things naturally simple, as complicated and difficult as possible." Rules are stated briefly and succinctly, the possibility of a peculiar case in which injustice might be done by the enforcement of a rule, is guarded against by allowing the judges some latitude; time is abbreviated; the spirit of equity prevails.

But a glance at some of the more unique provisions of this procedure will best indicate its great fundamental principle — the application of equitable rules to legal practice. Of course, it will hardly be possible to make a complete exposition of the rules in the limits of this paper. We can but indicate in the most casual way, some of the most striking provisions.

To begin at the beginning: Order I provides that all actions which were previously commenced by writ, in the superior courts of common law, and all suits which were previously commenced by bill or information in the High Court of Chancery or by a cause *in rem* or *in personam* in the High Court of Admiralty, or by citation or otherwise in the High Court of Probate, shall be instituted in the High Court of Justice by a proceeding to be called an action. This puts

all litigation on the same basis, so far as respects its commencement and nomenclature. It avoids any confusion between actions and special proceedings.

The next order provides that every action shall be commenced by a writ of summons which shall be endorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, and which shall specify the division of the High Court to which it is intended that the action should be assigned. I believe there are no less than four different ways of commencing legal proceedings recognized by the Code: by summons, by order, by petition and by citation. There seems to be no good reason why an action on a promissory note should be commenced by a summons, and a proceeding to prove a will by citation.

The object of the endorsement of the nature of the action required to be on the summons is to identify the controversy, facilitate a settlement, and where the defendant fails to appear, the endorsement will answer for a pleading and damages may be assessed on it. Every writ of summons has to be sealed and issued out of the proper registry office.

Appearance in obedience to a summons must be made in eight days. The statement of plaintiff's claim, if demanded, must be filed within five weeks, and the defense must be filed in eight days thereafter. This material shortening of the defendant's time to join issue is an innovation which many practitioners would like to see introduced in our practice. Twenty days are altogether too much time in which to answer a complaint in an ordinary action. No one ever really required twenty days to answer any complaint, and because the time is always extended, if

the defendant desires to have it, we have gotten into the habit of putting off the drawing of an answer until the last minute, and then of asking for an extension of time, which like as not we will again allow to pass by without even so much as thinking of the matter, until we see the evil "last day to answer" again staring us in the face. Great injustice is often done by reason of this long indulgence granted to the defendant. Dilatory defenses are not infrequent. It is probably within the experience of every practitioner that persons who were good when sued have managed to make themselves execution-proof before it was time to take judgment against them.

I find no rule in the English practice which permits an extension of time to plead, and am unable to say what their practice is in this respect. Our new Supreme Court Rule No. 24, prohibiting a second extension of time, except on notice, only partially corrects the vice. There should be no extension at all, except on notice, and then only in case better reasons for it are shown than that counsel has been busy.

By Order IX, personal service is required whenever it is practicable, but if it be made to appear to the court, or a judge thereof, that the plaintiff, is, from any cause, unable to effect prompt personal service, the court or judge may make such order for substituted or other service, or for substitution for service, of notice by advertisement or otherwise, as may be just. This rule gives a very wide discretion to the courts, and is somewhat simpler than our practice which requires proof that the place of defendant's sojourn cannot be ascertained, or if he is within the State, that he avoids service.

By rule 6 of the Order, parties may be sued in the name of the firm, and summons may be served upon any one of them, which shall be deemed good service on the firm. The partners must appear individually in their own names (Order XII, Rule 5.)

One of the most radical innovations in the rules, is the provision for summary judgment. By Order XIV it is provided that where the defendant appears to a writ of summons specially endorsed, the plaintiff may, on affidavit verifying the cause of action and the amount claimed, and stating that in his belief there is no defense to the action, apply to a judge for liberty to enter final judgment for the amount so endorsed, together with interest, if any, or for the recovery of the land, as the case may be, and costs. The judge may thereupon, unless the defendant by affidavit, or otherwise, shall satisfy him that he has a good defense to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend, make an order empowering the plaintiff to enter judgment accordingly. The defendant may show cause against such application by affidavit, or by offering to bring into court the sum endorsed on the writ. Such affidavit shall state whether the defense alleged goes to the whole, or to part only; and if so, to what part of the plaintiff's claim. If it applies only to a part, the plaintiff may have judgment for such part of his claim as the defense does not apply to. The judge may, if he thinks fit, order the defendant to attend and be examined upon oath; or to produce any documents.

It will be seen that this order goes much further than our practice respecting striking out an answer as sham, or granting judgment on frivolous pleadings. It anticipates the pleadings, and throws the burden

on the defendant of showing that he has a defense. It is, perhaps, permitting the trial of a cause by affidavits, a method of trial which, as we shall see, is not considered so objectionable in England as it is here, but as a matter of practice, a defendant can successfully show cause against the application, by stating what his defense is, and giving reasons for thinking it is substantial, and will be sustained by evidence.

This practice seems to meet with approbation, if we may judge by the remarks of the President of the Incorporated Law Society in the address already adverted to. He says: "I hope that the time is not far distant when we shall see the provisions of Order XIV greatly extended, a course which has been strongly recommended by the committee of our society which reported in 1892 on suggested changes in our legal procedure. * * * Compromises and settlements of litigation usually arise in consequence of one party to an action learning something which he has not before known, or has not appreciated, of the strength of his opponent's case. If a settlement of the disputes in the early states of litigation is an object, as I think it is, to be desired, it is important that each litigant should as speedily as can be learn something of the strength of his opponent's case, and I should like to see what I will call the underlying principle of Order XIV extended to every kind of case, and I would give to every litigant, be he plaintiff, defendant, applicant or respondent, the right immediately that all necessary parties are before the court, to apply to the court in a summary way for any judgment to which he may think himself entitled, in reference to the subject matter of the litigation, and to do this on such material as he may then be able to

bring before the court. There is a vast quantity of cases in which a short investigation performed by an able judge would show that the applicant had no reasonable ground for his application, or that the respondent had no such grounds for objection; and it should be the duty of the judge to enter judgment on the materials before him, either for the applicant or the respondent, or in such manner as he thought just, unless for special reasons he should consider that the particular case ought to be carried through in the manner prescribed by existing rules; but I would let it be possible to make such judgment a provisional judgment only, and allow the aggrieved party on giving security for costs, or on such other conditions as the court might impose, to have the action or proceeding tried or brought to hearing in the ordinary way. I am confident that, if the court possessed such a power as this, and if the parties were at an early stage of the proceedings brought face to face before the court, a settlement between the parties themselves, would in the vast majority of cases take place or a satisfactory judgment would be pronounced and further proceedings avoided."

In this connection it may be of interest to note that there has recently been established in London, a separate court for the trial of commercial cases. This court is presided over by judges whose whole lives have been spent in the conduct of such cases, and who possess the confidence of men of business, and it is said to be very successful. A similar experiment was once tried in New York, but it was an ignominious failure, for what reason I do not now remember. That some such tribunal for the settlement of the ordinary disputes of business, is a desideratum, would

seem to be indicated by the fact that business men frequently insert in their contracts clauses for compulsory reference to arbitrators in case of a misunderstanding.

Order XVI concerning Parties contains some rules which are in the line of substantial justice.

Rule 2 provides that where an action has been commenced in the name of the wrong person as plaintiff, the court, or a judge, may, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in controversy to do so, order any other person to be substituted or added as plaintiff on such terms as may be just. It has often happened that actions have been inadvertently brought by the wrong person, as by a *cestui que trust*, instead of trustee, or by mortgagor instead of mortgagee. Often the same mistake has been made where it was a matter of much nicety to say which of the two persons ought to sue. This rule, nothing like which is to be found in our practice, obviates any such embarrassment.

Rule II of the same Order provides that no cause shall be defeated by reason of the mis-joinder, or non-joinder of parties, and the court may in every case deal with the matter in controversy, so far as regards the rights and interests of the parties actually before it.

Rule 16 makes provision for cases in which the right of an heir at law or the next of kin or a class depends on the construction of an instrument, and it is not known, and will be difficult to ascertain who is or are such heir at law or next of kin or class. In such a case the court may appoint some one to represent the class, and the judgment is binding. In the same

way the court may appoint some one to represent a deceased person when there is no legal personal representative, and the judgment is binding against the estate in the same manner as if a duly constituted legal personal representative had been a party. A very important rule is that which permits a defendant who claims to be entitled to contribution, or indemnity over against any person not a party, to bring such person in by a summons. The third party so brought in may dispute the plaintiff's claim as against the defendant on whose behalf he was brought in. This gives a defendant a right to substantial relief against any person, provided it be connected with the original subject matter. A surety may in this way claim contribution from a co-surety; an endorser may claim relief against a prior endorser, and so an extra law suit may be saved.

The matter of joinder of causes of action is very simply disposed of in a short Order (XVIII), the gist of which is that the plaintiff may unite in the same action several causes of action, but if it appear to the court or judge that any such causes of action cannot be conveniently tried or disposed of together, separate trials may be ordered.

When we come to the rules governing pleadings, we find only one noticeable difference, but that is an important one. There is no demurrer in the new English system of pleading. In lieu of it, it is provided (Order XXV), that any point of law must be raised by a pleading, and must be disposed of at the trial, unless, by consent or by order, it is set down for hearing and disposed of before the trial. It can hardly be maintained that demurrers which do not go to the merits subserve any practical purpose, ex-

cept to enrich the counsel on one side at the expense of the counsel on the other: There are very few demurrers which affect the result of the action. There are some minor points in connection with the rules on pleading which are worthy of notice. Corresponding with our complaint is the statement of claim; the answer is known as the defendant's defense, or counter-claim. A defendant may set off or set up by way of counter-claim any right or claim whether sounding in damages or not, and such counter-claim shall have the same effect as a cross action, so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross claim. This is a salutary rule and one which prevents the injustice permitted by our absurd rule that a counter-claim arising *ex contractu* cannot be set up in an action on *tort*. I may be permitted to illustrate the unreasonableness of our rule by a recent case in my own practice. My client, a bank, was sued by one of its former customers, to recover, under the statute twice the amount of usurious interest which the bank had charged him for discounting his paper. Inasmuch as the plaintiff was a defaulter, and a fugitive from justice, and had been so thoughtless as to leave some two or three thousand dollars of his unsecured notes in the bank's hands, when he went away, his suit was regarded with no little surprise. An answer setting up his debt to the bank as a counter-claim was demurred to, and under the decisions the demurrer seemed to be well taken. Here was an anomaly. Was this bank which had claims against the plaintiff for several thousand dollars, to suffer a judgment against it for six hundred dollars in his favor? There seemed to be no help for it, and there

would have been none, if it had not occurred to me that the plaintiff's attorneys who were known to be creditors of their own client, and who verified the complaint in his stead, were probably bringing the action without authority. An order to show cause why the complaint should not be dismissed for want of authority to bring it, was effective to secure a discontinuance.

Another provision respecting counter-claims is, that where a defendant sets up a counter-claim against another person, as well as the plaintiff, the third person if not a defendant, may be summoned to appear and reply to the counter-claim.

The rules restrict the defense to unequivocal denials of the statement of claim, or some part of it. A mere denial of a debt is inadmissible. The defendant must deal specifically with each allegation of which he does not admit the truth. Thus, if it be alleged that he received a certain sum of money, it is not sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. Neither party need in any pleading allege any matter of fact which the law presumes in his favor, or as to which the burden of proof lies upon the other side.

No technical objection may be raised to any pleading on the ground of any alleged want of form.

Forms of pleading for every conceivable kind of action are furnished in an appendix. This is the form of claim in an action by the payee against the maker of a promissory note:

Title.

The plaintiff's claim is against the defendant as maker of a promissory note for £250, dated 1st of January, 1882, payable four months after date.

Particulars.

Principal	£250
Interest	10
	£260

Place of trial, Lancashire, West Derby Division.

Signed,

Delivered.

There are several provisions respecting trial and the preliminaries thereto which may be mentioned. In place of our practice by motion and order, the English Rules provide that a general summons for direction may be taken out at any time by any party with respect to particulars of claim or defense, discovery, commission and examination of witnesses, mode of trial, etc. (O. XXX.) Either party may by leave and upon making a deposit as security for costs, deliver interrogatories in writing for the examination of opposite party. (Order XXXI.)

Concerning evidence it will suffice to make mention of one or two of the most noticeable rules. A very convenient rule is that permitting evidence to be taken by affidavit, unless the other party desires the production of the witness for cross-examination. Fourteen days after a consent for taking evidence by affidavit has been given, plaintiff must file his affidavits. Defendant must file his within fourteen days thereafter, and plaintiff must file his in reply in seven days. Any party desiring to cross-examine may have the production of witnesses. There are numerous cases involving small amounts which hardly war-

rant the expense of bringing witnesses from distant parts of the State where this practice would be most convenient.

Another rule authorizes an action to perpetuate testimony in any case where a person may become entitled, upon the happening of any future event, to any honor, title, dignity or office or to any estate or interest in property.

It is also provided that the court may, on application of either party, order the attendance for cross examination of the person making any affidavit used on a motion.

As has been said before, the rules do not touch the selection of trial jurors, but in view of the fact that a very widespread dissatisfaction with the quality of our trial juries exists, especially in the larger counties, which is finding expression in a vicious sort of special legislation providing commissioners of jurors for several counties of the State, it may not be amiss to call attention to the fact that if our statute (sections 1035-1062, Code Civil Procedure), should be made to conform to the English statute from which it is derived, the same result could be accomplished and at a much less expense, than is obtained by the commissioner plan. This conformation could be accomplished with a few slight amendments. The principle reason why we do not have better juries, is that the lists do not contain the names of all persons who are qualified, but only such as the supervisor, town clerk and assessors choose to put on in the exercise of a judicial discretion. If section 1036 were amended so as to compel the officers who make up the lists to put thereon the names of all persons who are qualified, instead of allowing them to put on those whom

they believe to be qualified, we would have better original lists. Then, if provision were made for advertising all names of qualified jurors in each town and ward, and for the appointment of certain days when cause might be shown before the proper officer why any person on the list should not serve; and, finally, if the names as corrected and returned to the county clerk, could be put in a book, together with qualifications, our system would be much improved.

As another very good illustration of the simplicity of the English practice, Rule 51, relating to sales by the court, may be cited. It is well known that it is almost dangerous for a practitioner to conduct proceedings for the sale of a decedent's real estate, for the payment of debts, unless he has eaten and slept with Title 5, Chapter 18 of the Code for several days. Such practice in the English courts would seem to be regulated by this simple rule: "If in any cause or manner relating to any real estate, it shall appear necessary or expedient, that the real estate or any part thereof should be sold, a court or a judge may order the same to be sold."

The Rules respecting costs are something amazing to the American mind. There are fees for a first counsel and second counsel and third counsel, senior counsel's clerk, and junior counsel's clerk, there is a higher scale and a lower scale of costs, and every paper served or figure written is at a certain fixed fee; there are fees for perusals and for appearances and instructions; there are retainers and refreshers, until the mind is dizzy.

The English bar is a strange compound of conservatism and radicalism. It cannot give up its preposterous long vacation, or its anomalous relation be-

tween counsel and client, or its absurd fee bill, but it has taken steps many years in advance of the American Bar, by codifying the law of bills and notes, common carriers, etc., and it has produced a system of procedure from which we have much to learn.

To bring this paper within the subject assigned, which is: "What methods should be adopted in the proposed revision of the Code of Procedure, and how can the work be carried on so as to give the best results?" it will be necessary to deduce some morals from the foregoing narrative.

I venture to suggest the following propositions:

1. That the matter of the revision of the Code should be put into the hands of two or three of the ablest members of the profession and under the supervision of an advisory counsel of judges.

2. That such commission should make a thorough study of the Procedure in other States and countries, and especially of that in England and her colonies.

3. That the statutory provisions should be confined within a very brief compass, and all details of practice should be shaped in the form of rules of court.

4. That the rules of court once adopted should be in the hands of a joint commission of judges and members of the bar, and that no amendment thereto should be made without the approval of the commission.

REPORT OF COMMITTEE ON REVISION OF STATUTES, BY DANIEL S. REMSEN, ESQ.

To The New York State Bar Association :

Your committee on Statutory Revision having been first appointed some years since with special reference

to the revision of corporation laws and having followed the revision of those laws through several legislatures, seeking and making suggestions thereto, had at the last annual meeting supposed its labors were finished, We therefore rested in the calm composure of having performed our duty and having aided in some degree in the improvement of that branch of the statute laws, but this happy frame of mind was not to endure. The last annual report was published, and, behold, we have been transformed into a committee on the revision of the statutes generally. We were grieved for we felt that we had earned a rest. But it remained for the chairman of the committee on law reform, who is doing so much on that behalf, to suggest a report. We therefore submit the following:

In 1889 a commission was authorized and appointed for the revision of the statutes. This commission soon after prepared a plan for the revision of the statute law embracing 51 chapters.

The scheme adopted in 1889 embraced the following general laws: Statutory Construction; State; Political Divisions; Enumeration; Indians; Election; Public Officers; Legislative; Executive; State Finance; Public Lands; Canal; Salt Springs; Public Buildings; Prison; Military Code; General Municipal; County; Highway; Town; Village; City; Civil Service; Tax; Public Health; Education; Poor; Insanity; Excise; Navigation; Game; Labor; Agricultural; Domestic Commerce; General Corporations; Stock Corporations; Banking; Insurance; Railroad; Transportation Corporations; Business Corporations; Religious Corporations; Membership Corporation; Benevolent Orders; Joint Stock Associations; Real Property; Personal Property; Wills; Domestic Relations.

Of these, all except Political Divisions, Enumeration, State Finance, Prison, Village, City, Civil Service, Tax, Poor, Insanity, Navigation, Labor, Domestic Commerce, Benevolent Orders, Real Property, Personal Property, Wills and Domestic Relations, have been enacted. Of this number general laws will be introduced this year, relating to Taxation, Real Property, Domestic Relations, Benevolent Orders, Care of the Insane, Care of the Poor, Charitable Institutions, Domestic Commerce and State Finance. Of the remaining number the chapter on Wills will probably be included in the Code of Civil Procedure. This leaves only nine. It will be observed that these are subjects which can be worked out with comparative ease. Considerable work has already been done on all of these bills, and some of them may be reported to the legislature of 1897. It is quite possible that the revision of the Code will require a further classification and some new titles of general laws may be added.

The subject of general charters for cities is already in the hands of commissions charged with the revision of general city charters, and if these commissions submit proposed general charters, it may dispense with the further consideration of that subject by the commissioners on revision.

There was a revision of the Prison Law in 1889. The adoption of the constitutional amendment on the subject of prison labor, and the creation of a prison commission seem to have made another revision of the prison law desirable, and that this revision should include the whole subject of penal institutions, including prisons, reformatories, penitentiaries and jails, but it may not be best to undertake this revision

until the policy of the State becomes more settled, and especially until the constitutional provision goes into effect, which will not be until January 1, 1897.

The subject of education was intended to include the university law, the general school law and all the law affecting the educational system of the State, but the school law so far as it affects the common schools and the department of public instruction, was revised in 1894 by that department, and a large appropriation was made for the distribution of copies of this law. The laws affecting the universities were revised in 1892. These two recent revisions seem to make it impracticable to take up the subject again at a very early date, but we are informed that it is the purpose of the commission sooner or later to embrace the whole subject of education in one general law.

In addition to the revision of the general statutes, so-called, the commissioners on revision have been entrusted with the revision of the Code of Civil Procedure, and their preliminary report has been issued outlining their proposed plan. As this particular portion of revision has been fully discussed here to-day, it does not require our special attention.

In a word, however, the commissioners propose to bring into the Code a very much larger body of the law relating to procedure, in its more extended sense, and they specify nearly fifty additional subjects to be added thereto.

On account of the large number of general statutes affecting practice, which will probably be disposed of in the Code of Procedure or elsewhere, a complete revision cannot be made until the Code is revised.

As soon as practicable, however, a complete offi-

cial indexed edition of the general statutes included in the revision should be published.

Since the revision of 1828 there has been an annual flood of legislation and the commissioners of revision have had no ordinary task before them. They have so far succeeded in a marked degree. But we are all aware that some portions of the partial revision have been the subject of what might be called *ex post facto* criticism, much of which ought to have been elicited before the revisions were enacted.

Be the draft of a revised law ever so well executed we believe it can be greatly improved by independent critical examination. The revision on certain subjects such as Railroads, Insurance Companies, Banks, and the like, affecting monied interests easily aroused are apt to receive public attention and those affected are quick to point out defects. That is not the case, however, with the laws more particularly affecting the ordinary citizen. For example, no great number of eminent lawyers will be paid to spend days and weeks in a critical examination of a proposed revision, or to appear before the commissioners on revision or legislative authorities to point out defects or inaccuracies in the all important laws affecting such general interests as domestic relations, care of the poor, the law relating to real property, personal property, wills, insanity, navigation, labor and the like. Yet these laws affect every citizen and are of the greatest importance. It would seem, therefore, that some method should be devised to secure for the revision of laws affecting the individual at least as careful and critical examination as the laws affecting money interests.

Hence, we would recommend that after the commissioners of revision have prepared a draft of a pro-

posed revision of the laws on a particular subject, it be assigned by the governor to particular lawyers, say in different parts of the State, with a view to making suggestions for its betterment.

The advantages of independent criticism of a proposed law is conceded by all who have taken any part in revising our statutes and we see no reason why such work should not be compensated. Indeed, if it is not paid for, it will not be done, and the public cannot afford to have anything short of the best in its public statutes, and no revision should become law before it has more than the hurried examination possible on the part of a legislative committee.

To The New York State Bar Association :

The Committee on Law Reform respectfully submits the following report of its proceedings, with recommendations for future action :

Your committee was charged by this body, in addition to the general duties devolving upon it under the Constitution, with certain specific matters, among others :

STATE LAW LIBRARY.

To procure action to be taken for the speedy publication of a revised catalogue of the Law Library of the State, we have to report in that respect that there has been issued during the past year, designated as "State Library Bulletin, edition No. 2," a subject index of the Law Library from 1883 to 1893, being a continuation of the index referred to in our report of last year. This adds very much to the convenience and usefulness of the library, and the profession and Association are under obligation to the officers of the

Board of Regents and the librarians of the Law and State Libraries for their very prompt response to the request of the Association, through your Committee, that such action be taken.

The work is, however, as it now stands, in two volumes, and is an index by subjects only. It is not so complete or convenient as it should be, since a catalogue of a library of this size and character should be by both authors and subjects, and it is desirable that there should be prepared and published in the near future, a thorough work covering fully the entire subject.

In connection with the State Law Library, the attention of the Association should be called to the fact that there has been, during the past few months, some agitation as to the location of the State Library, including the discussion of the removal of the Law Library from its present quarters either to other rooms in the Capitol building more confined and inconvenient than those at present occupied, or to another and separate building where it will be practically inaccessible to members of the bar in attendance upon the Court of Appeals. The rooms in which the Library is now located are reasonably spacious and readily accessible. The arrangement of the Library is that to which the bar has become accustomed, and its removal would be a source of annoyance and inconvenience. The Law Library is appurtenant to the courts and necessary to the administration of justice. Its proper place certainly is in the building with the highest appellate tribunal, and any change or removal is to be seriously deprecated and should be opposed by the profession and on its behalf by this Association.

UNIFORMITY OF LAWS AND IN PROCEDURE.

The committee was directed to favor the movement to obtain uniformity in the administration of the law throughout the United States. We have been in correspondence with members of the commissions appointed by the different States relative to this matter. A bill was prepared by such Commissioners during the winter of 1895, providing for the appointment of commissioners by the Federal government to take charge of this work and we were asked to co-operate in procuring such legislation by appearing, through our Chairman, before the Committee of the House of Representatives. Subsequently, however, it was thought by the persons having the matter in charge that the bill could not be put upon its final passage during the then short session of Congress, and the matter was allowed to stand over until the present session. It will doubtless be revived and pressed by those having it more immediately in charge, and this Committee will undertake to aid in bringing about the accomplishment of the object sought, as directed by the Association at the last meeting.

CODE REVISION.

Your Committee was directed to press a provision for an examination by a properly constituted authority, as to the propriety of a revision of the Code of Procedure. In accordance with this action, a bill was prepared by your Committee and placed in the hands of Hon. James M. E. O'Grady, of the Assembly, who promptly secured its passage, and it was subsequently passed by the Senate and received the signature of the Executive. This bill provided for the appointment of commissioners to report as to the

propriety of such revision. The Governor, upon the same day on which the bill was signed and contemporaneous with the announcement of that fact, appointed the members of the Statutory Revision Commission to perform this work. Your Committee is informed, although not officially, that they have made inquiry by means of circular letters of members of the profession throughout the State, as to their views upon this subject, and that a very large percentage of the responses received by them favor a thorough revision of the Code. This was followed by their report recently distributed to the Bar, in which the Commissioners say: "The history of the development of civil procedure in this State, shows that the time has arrived when it will be convenient and for the public interest to undertake a re-arrangement, a more thorough classification and a revision of our entire civil procedure." Then they proceeded to recommend a revision substantially upon the lines suggested by this Committee in its report to this body in 1895. It may, therefore, be assumed that the question of Code Revision is a fixed fact and upon the plan urged by this Association, and that thus far the work of this Association has been successful, leaving only the important question as to the manner in which the work shall be carried on, which is a subject for discussion at this meeting, at which there will be presented papers by members of the bench and bar from different parts of the State bearing upon the question.

The Revision of the Code in such a manner as shall be both satisfactory and beneficial, alike to the profession and the public, is a work to which the Association stands committed, and in which it must con-

tinue its interest, and for the completion of which it has practically assumed the responsibility. From correspondence received from members of the Bar throughout the State, the trend of opinion seems to be in favor of a revision, either under the supervision of the Judges of the courts most affected thereby, or by a body consisting of members of the Bar, some of whom have had experience upon the bench. The latter view seems more acceptable to the Bar, as likely to combine the experience of the Judges with the requirements of the lawyer and the client, and most likely to give satisfactory results. Such sentiment also seems favorable to a plan by which the statutory enactments shall be limited so far as possible, leaving many of the details of practice to be regulated by the Rules of the courts.

It must not be overlooked that the study, comparison of views, drafting and correction necessary for the preparation of a code which shall be useful to the bar, is a work which will require the almost uninterrupted attention of at least three of the most skilled members of the profession, for a period of not less than two years, and that no expense should be spared to make it not only the most complete system of practice extant, but the very best that under the present conditions can be devised by the highest order of talent at the bar of the State, aided by the co-operation of the bar of other States and countries. The necessity of placing this work in the hands of a body specially constituted for that purpose, is emphasized by a suggestion in the message of the Chief Executive just submitted to the Legislature, in which he more than intimates that the work of Statutory Revision would be necessarily hampered by placing this

burden upon the commission having that matter in charge. Governor Morton says, "The Commissioners inform me that they will probably be able to present to the Legislature of 1898, a complete revised official edition of the general statutes, unless they are prevented from finishing this work by the labor involved in a revision of the Code of Civil Procedure." This statement, therefore, involves not only the views of the Governor upon the subject, but a deliberate expression of opinion by the Commissioners of Statutory Revision themselves, and is apparently conclusive upon this point, since the work of Code Revision should be entered upon and proceeded with, with diligence, while the work of Statutory Revision will not bear delay.

UNIFORMITY IN METHODS OF PROCEDURE.

At the last meeting of the American Bar Association, the Chairman of this Committee presented to that body, a statement with reference to a movement going on in the English bar relative to bringing about uniformity in methods of procedure in English-speaking countries, and offered a resolution which was unanimously adopted appointing a committee for the purpose of entering into correspondence and ascertaining the views of our English brethren upon that subject, with power also to inquire into the subject in other States and countries. It is unnecessary to say that we in this State ought, without hesitation, to avail ourselves of any work in the direction of reform or improvement in legal procedure which may be carried on either in other States or in England, and that it is exceedingly desirable that the fullest and most complete information upon that subject should be

obtained and placed at the service of such body as may be authorized to act in connection with the revision of our Code.

This Committee, therefore, submits a like resolution for action by this body, in order that by means of such correspondence, inquiry may be made as to any steps which have been or may be taken looking toward a better and more complete system of scientific legal procedure, with the hope and expectation that the experience of other countries may be valuable to us in bringing about the preparation of a thorough and comprehensive plan of legal procedure which shall neither by reason of its detail serve to annoy and confuse, nor by reason of its glittering generalities fail to aid the practitioner in the performance of his duties.

PREFERENCE OF CAUSES ON TRIAL COURT CALENDARS.

An amendment to the Code has been secured with reference to the placing of preferred causes on the Calendar, restoring the former practice by which the clerk, except in the County of New York, places preferred causes at the head of the Calendar in the order of their preference, without requiring motion on the first day of the term, as has heretofore been necessary. The result of the practice in vogue for the past few years has been to make it exceedingly uncertain what causes are preferred, and to place counsel and litigants at a disadvantage, in that they were unable to determine what causes would have preference by reason of being placed at the head of the calendar. By restoring the old practice, causes which are entitled to preference are placed together, and it is readily known what causes will be first tried in their order,

thus much facilitating the work of ascertaining the relative location of any given cause on the calendar, and the probabilities of reaching it for trial.

LAW REPORTING.

The system of law reporting recommended by this Association, and adopted by the reporters and publishers of the official reports of this State, has become a fixed fact and has met with the general approval of the bar throughout the State. No reference would be deemed necessary to this subject at this time, but for the fact that, by reason of the abolition of the appellate tribunals of the local city courts throughout the State, the work devolving upon the Miscellaneous Reporter has been very much curtailed, no court of that character now remaining in existence, except the City Court of the City of New York. This has presented for the consideration of the Legislature the propriety of repealing the Act providing for a miscellaneous reporter, and again throwing open to private competition the reports of decisions at special terms, in Surrogate's Courts, County Courts, etc., which are desirable at least, if not necessary to the profession. A bill of this character was introduced in the last Legislature and was opposed by your Committee, upon the ground that it was exceedingly desirable that an official reporter should be continued, in order that the judicial decisions promulgated by the courts should be promptly and authoritatively published upon a uniform system. It is of course just and proper that the expense attendant upon the maintenance of this series of reports should be curtailed in reasonable proportion to the amount of labor done, but it is exceedingly undesirable that a repeal *in toto*

of this Act should be had, and your Committee strongly recommend that the reporter be continued even though it be necessary that matters be arranged, as in the case of the Supreme Court Reporter, so that he act without compensation from the State, and receive his compensation entirely from the number of volumes prepared.

While this is not the ideal method and is not recommended by your Committee, it is decidedly preferable to a discontinuance of the series as such, and should be adopted if, in the opinion of the Legislature, it is too expensive as conducted by the present method, which is in all respects preferable to the one suggested.

It is quite desirable that no step backward should be taken in this State, in view of the hearty commendation which the present Combined Series has received from the Bar throughout the country. At the late meeting of the American Bar Association at Detroit, the Chairman of this Committee presented a report on behalf of the Committee on Law Reporting of that Association, setting forth at considerable length the plan of the Combined Official Series, which received most hearty commendation from the members of that Association as a long step in advance in the way of official reporting and as one likely to be adopted and followed in other jurisdictions.

A further important matter in this connection, is the fact that the existence of all the official series in this State has been recognized in the Rules of the Supreme Court, by an amendment which this Association sought to have enacted as part of the Code in 1893, which then failed of enactment. Rule 43, as amended at the late Convention of Judges, provides "All cases

cited on the briefs before the courts of this State, shall be cited from the reports of the official reporters, if such cases shall have been reported in full in the official reports." This, in common with the very many other suggestions made by and on behalf of this Association, while not adopted in the first instance, has by consideration and discussion become familiar to the bar and the bench, and been adopted and regarded as exceedingly desirable and important, indicating very clearly the value of the work of this Association in molding the sentiment of the bar in favor of much needed reforms.

EXCHANGE OF BRIEFS IN APPELLATE DIVISION.

The experience of the past year in the Court of Appeals in exchange of briefs before argument, has been so convenient to the bar, and has, in the opinion of your Committee, facilitated the work of the Court to such an extent that we deem it desirable that a like rule should be adopted in the Appellate Divisions of the Supreme Court in order that each party may be apprised before argument of the views presented by his opponent, and enable him to prepare for the argument of the precise points in issue. This tends not only to the benefit of counsel upon both sides, but to the convenience of the court, by directing the argument to the question at issue and avoids prolixity and argument upon points not pressed upon the attention of the court.

RELIEF TO THE COURT OF APPEALS.

The condition of the Calendar of the Court of Appeals requires immediate attention and presses itself upon the profession. This court has, with the most

unflagging industry, been unable to dispose of its calendar of causes since the Second Division was dissolved, and very reasonably so. It is well understood and has been demonstrated in the appellate courts of other States and in the Supreme Court of the United States, as well as in our own appellate courts, that a certain amount of work of this character is all that can be properly performed by any tribunal. For several years the Court of Appeals has been overworked, and a greater amount of labor required from it than could reasonably be demanded. As matters stand at present, the calendar made up in January, 1895, contains 852 appeals from judgments; of this number, 345 were argued during the year and up to the adjournment of the court in December, 1895. The return in the last cause argued was filed February 6th, 1894, that is, nearly two years elapsed between the filing of the return and the argument, but unfortunately this condition of affairs is rapidly becoming much worse. When the Second Division went out of existence in 1893, the court was up with its work, so that it was able to substantially complete the calendar within a year. The present calendar cannot be completed in very much less than two years and a half. This appears, from consideration of the fact that of the 852 cases on the calendar (appeals from judgments), 345 have been argued during the year, leaving 507 undisposed of, which, at the same rate of progress, would require nearly a year and a half longer, and the present calendar cannot be disposed of very much before the adjournment for the summer recess in 1897. This view is further enforced by taking the average number of returns filed during the years 1891, 1892, 1893 and 1894, the year

1895 being eliminated from the calculation by reason of the fact that it is well known that returns are withheld and not filed until about the time that a calendar is likely to be made up. The average number of returns on appeals from judgments filed in the four years referred to is 775 per year.

Assuming the same average for the future and the same amount of work from the court, we should have the difference between 775 causes in which returns are filed and to be disposed of, and 345 actually argued, leaving 430 causes undisposed of each year; that is to say, a considerably larger number undisposed of than are argued and decided. The number of appeals from judgments undisposed of on the Court of Appeals calendar January 1st, 1896, being 507, we assume the average number of appeals during the next year and a half, namely, 775 per year. If, as we have assumed above, the present calendar should not be cleared up until the summer recess of 1897, we should then have at the present ratio, 1,162 causes to go on a new calendar to be made at that time, certainly more than that number by the next October. It is, therefore, probable that a new calendar, when made, will contain 1,200 causes which will be, at the present average, considerably more than three years' work for the Court.

The result of this state of affairs must be that in the next four years, with the same average, we shall have appeals in 3,100 causes, while the Court can normally dispose of, at the same rate as during the last year, 1,380, leaving an accumulation of over 1,600 causes upon the calendar on January 1st, 1900, four years hence, representing at the present rate more than four and a half years' work of the Court in order

to dispose of accumulations, or, in other words, the calendar under the present condition of affairs on January 1st, 1900, will be nearly five years in arrears. This calculation is of course based upon conditions remaining as at present and without taking into consideration the changes made by the new Constitution. It was expected and it is to be hoped that the new Appellate Division of the Supreme Court will do such satisfactory work as to lessen very much the number of appeals. This, however, cannot be counted upon with any certainty, and it is somewhat doubtful whether it will serve to any appreciable extent to lessen the labors of the tribunal of last resort. The new Constitution also prohibits appeals from orders which have heretofore taken some of the time of the court, two motion days during each of the six sessions of the court being devoted to that purpose. This would give somewhat more time to the determination of appeals from judgments, but it must not be overlooked that the new Constitution has also abolished the limit of appeals heretofore existing of \$500, and it would seem to be a fair inference that the number of appeals taken under this provision, would practically take the time of the court, which may be saved from appeals from orders; but assuming that the court can dispose of 450 appeals from judgments each year, instead of 345 as heretofore, during the next four years, it would still leave a condition of affairs by which, of the 3,100 causes reasonably to be expected to go on the calendar, only 1,800 would be argued, and on the first of January, 1900, the court will start out with a calendar of 1,300 causes representing the work of three years, and a like delay in the dis-

position of appeals, without any allowance for an increase in the number of appeals.

These figures and calculations are, of course, only approximate, and intended in a general way to show the necessity for action for relief of the Court. At the very best no relief can be had until the first day of January, 1900, in view of the fact that a constitutional amendment must pass two successive senates, and that the present senate holds for three years, a constitutional amendment cannot be passed so as to go to the people before the fall of 1899, and into effect under most favorable circumstances, upon the first of January following. It is, therefore, desirable that action should be taken at once to create a sentiment in this direction, and to provide for such means as may be desirable and proper to relieve the court from the enormous mass of litigation pressing upon it. This is due alike to the court, to the profession, and to the suitor.

REVISION OF THE STATUTES.

The necessity for the early completion of the work of revision of the statutes, leads your Committee at the risk of trespassing upon the duties of the special committee having this matter in charge, to urge this question upon the attention of the Association, and to advise such action as shall bring this work to completion as rapidly as possible. It is unnecessary to call the attention of a body of lawyers to the fact that no official revision of our statutes has been made since 1830, in connection with the additional fact that in 1895, as an illustration, three bulky volumes of statutes, general and local, were thrust upon a long-suffering and patient profession, being the largest body of legislation in the history of the State, con-

sisting of 1,045 chapters. It is useless to deprecate the bulk of unnecessary legislation. This is done in Governor Morton's recent message and in the report of the Commissioners appointed to investigate and report as to "Methods of Legislative Procedure." No remedy has as yet been found for this mass of legislation and your committee is not disposed to undertake any extended discussion of the question. It does, however, seem possible and reasonable that, in the midst of this wilderness of statutes, we should be able to obtain for the use of the lawyers and the courts a careful collation of our statutes as they exist at present, with such amendments as may adapt them to present conditions, bringing them down to date in a clear and concise form, such as is contemplated by the revision now in progress.

The present condition of our statutes may be said without exaggeration, to be a reproach to the bar of the State. The Revision Commission has labored zealously as a body, and its members are working manfully to remedy existing evils, but when it is considered that in addition to this work, they are obliged during the Legislative session, to draft and revise bills upon all subjects at the request of members, it is apparent that for four months of the year nothing is practicable in the way of carrying on the work of statutory revision. Still another month must be spent by them in the examination of bills left in the hands of the Governor on the adjournment of the Legislature; so that practically the only time this Commission is able to devote to the business of statutory revision, is from September first to January first of each year, and during the past year, judging from the care and attention which must have been given to

their learned and elaborate report upon Code Revision, very much of that time has been necessarily devoted to that purpose.

Still another difficulty exists which should be adverted to in this connection, and that is the entirely inadequate salaries paid the Commissioners of Statutory Revision, by reason of which they are unable to relinquish their practice, and must devote some care, time and attention at least, to keeping up and carrying on their own business affairs. Three thousand dollars per year is manifestly inadequate and unjust, in view of the labor and responsibility demanded from the members of this Commission, and this difficulty should be promptly remedied by the Legislature, and such compensation made to the members of this body as will be fair and adequate in view of the labor imposed upon them.

ASSESSMENT AND TAXATION.

In 1892 an effort was made to bring about a codification of the tax laws, by the appointment of counsel to revise laws relative to assessment and taxation, and by the authorization of a legislative committee to investigate the subject. The result was the submission to the Legislature of 1893, by the counsel appointed for that purpose, of a complete codification and revision of the laws, also the submission, on behalf of the legislative committee, of several independent acts intended to remedy existing evils. No action was taken with reference to the matter and a report was made to the Legislature of 1895, by the counsel appointed in 1892, comprising a complete revision of the tax laws except those relating to corporations and taxable transfers. This proposed Act failed of pass-

age. The matter, as we are informed, has been taken up during the past year by the Commission of Statutory Revision, and a bill framed codifying the laws relating to assessment and taxation, based largely upon the work heretofore submitted to the Legislature already referred to. In view of the complicated condition of the laws upon this subject, the very great amount of litigation arising from their condition and their importance to the public, your Committee recommends that an earnest effort be made to complete the codification or revision of the statutes on this subject, to the end that they may be simplified and made to conform to present requirements. It is certainly a matter of the utmost importance that statutes so frequently referred to and acted upon, should be capable of interpretation and construction without such frequent reference to the courts, and that they should be gathered together in such form as to be readily accessible at least to the members of the bar, instead of being scattered as at present, through the volumes of the Session Laws, since it appears by the Repealing Schedule attached to the proposed revision of 1895, that the enactment of a complete revision would involve the repeal of nearly or quite one hundred statutes, aside from those relating to Taxable Transfers and Taxation of Corporations.

The proposed Act submitted to the present Legislature, should receive the careful attention of this Association.

RELATION OF THE ASSOCIATION TO OTHER BAR ASSOCIATIONS IN THE STATE.

Your Committee takes pleasure in recognizing and calling attention to the fact that in carrying on the

work committed to it, more particularly with reference to the Code Revision, it has had the hearty cooperation of the Association of the Bar of the City of New York, of the Rochester Bar Association, the Syracuse Bar Association and the Brooklyn Bar Association, and that your Committee, in consultation with committees charged with like duties in these associations, has been materially aided in carrying on this work, which has been heartily endorsed by the Associations named. The Committee on Amendment of the Law of the Association of the Bar of the City of New York, has actively interested itself in the subject and forwarded very materially the passage of the Act providing for a Commission for that purpose.

In other matters, notably in reference to the repeal of Chapter 171 of the Laws of 1895, relating to the distribution of estates of intestates, by the enactment of Chapter 1022, your Committee has been in communication with other Associations and unity of action has been found exceedingly convenient and useful.

Your Committee recommends the adoption of the following:

Resolved, That the convenience of the courts and of the bar requires that the State Law Library be located in the Capitol building, and that the accommodations provided for it should be at least fully adequate to those afforded in the rooms it now occupies, which are, in the opinion of this Association, well adapted for that purpose.

Resolved, That it is desirable that this Association inquire into and collate the facts relative to the movement now in progress to further a uniform system of legal procedure, and the state of comparative legisla-

tion on that subject throughout the English-speaking world.

Resolved, That the interests of the bar will be best subserved by continuing the publication of the official series known as the Miscellaneous Reports, and that their discontinuance would be inconvenient and productive of additional expense to the lawyers of the State.

Resolved, That a bill relating to Code Revision be drafted and presented to the Legislature for enactment, which shall provide for the appointment of not less than three persons to carry on that work, at least one of whom shall have served a term upon the bench of either the Court of Appeals or the Supreme Court, and for proper and reasonable compensation for their services and for their necessary expenses and disbursements.

Resolved, That the Legislature be urged to take immediate action, looking toward the adoption of a constitutional amendment which shall provide for a sufficient judicial force to transact the business of the Court of Appeals.

Resolved, That this Association recommends a thorough revision of the existing laws relating to Assessment and Taxation, with a view to bringing all the laws relating to that subject under a single head, and simplifying and condensing them as a matter of convenience and utility.

Resolved, That the Committee on Law Reform be charged with the duty of presenting to the Legislature and the Governor, matters contained in the foregoing resolutions (and that to that end the Committee consult like Committees of other Bar Associations throughout the State), and that the outgoing and in-

coming President of the Association be requested to act with such Committee for that purpose.

January 21st, 1896.

J. NEWTON FIERO,

Chairman.

ELBRIDGE L. ADAMS,	G. J. GARRETSON,
WILLIAM D. VEEDER,	A. H. SAWYER,
ROBERT G. SCHERER,	ADELBERT MOOT,
Z. S. WESTBROOK,	G. M. DIVEN,
R. F. WILKINSON,	CEYLON H. LEWIS,
JOHN J. LINSON,	JAMES A. ROBSON,
C. A. COLLIN,	LOUIS M. BROWN,
AUSTIN ABBOTT.	

Irwin W. Near concurs in report except that he is in favor of Code Revision and all other Statute Revision being committed to the present commissioners, with power to select two additional persons to be associated with them.

Leroy Parker approves of the report except that he is not in favor of continuing Miscellaneous Reporter.

H. J. Cookingham approves of report, but adds the suggestion that Supreme Court decisions should be cited as Supreme Court reports and not as Hun or any other name of a reporter.

William B. Hornblower concurs in report except as to constitutional amendment relative to Court of Appeals; is of opinion appeals should be limited by the Code.

Ansley Wilcox concurs in report except as to the immediate revision of the Code; is in favor of having present Commission strengthened, but not to be charged with revision of Code; thinks this is not proper time for revision; also urges a resolution

favoring the restoration of room used for Senate Post Office to the use of lawyers attending Court of Appeals.

The report and recommendations of the Committee were discussed by Messrs. Matthew Hale, Marcus T. Hun, J. Brooks Leavitt, William B. Hornblower, J. Newton Fiero, Waldo G. Morse, Frederick W. Henrichs, John I. Gilbert, Lyman J. Arnold, and J. S. Smith.

Mr. Leavitt: I offer the following:

Resolved, That it is the opinion of this Association, that any revision of the Code of Civil Procedure should be upon a plan of curtailment, rather than one of enlargement, and that the revised Code should contain nothing but a concise statement of the general principles of practice, to be provided for by rules of court, and in the preparation of court rules, the bar should take part as well as the bench. (Carried.)

Mr. Fiero: The Committee on Law Reform presents the following:

“WHEREAS,” By Rule 43 of the General Rules of Practice, adopted at the convention of the justices of the Appellate Division of the Supreme Court, in December, 1895, it is provided as follows:

“All cases cited on the briefs from the courts of this State shall be cited from the reports of the official reporters, if such cases have been reported in full in the official reports, and

“WHEREAS, Provision is made by law and the General Rules of Practice for the official publication of the opinions of the courts of this State,

“*Resolved*, That the judges of the Supreme Court, Special Term, Surrogates, County Judges, etc., be

and they are hereby respectfully requested to forward to the Miscellaneous Reporter copies of any opinions rendered by them or either of them, and which they deem of importance enough to be preserved in permanent form."

Adopted.

Mr. Fiero: I also offer the following:

Resolved, That the retiring President be requested to convey to Governor Morton the appreciation on the part of this Association of the courtesy extended its members through his invitation to the Executive Mansion for this evening. (Carried.)

Mr. J. H. Cook: I move a vote of thanks to the retiring President for the able and impartial manner with which he has discharged his duties. (Carried.)

Mr. Hawks: I move a vote of thanks to the gentlemen who read papers on different topics. (Carried.)

Mr. Benjamin Franklin moved to adjourn *sine die*. (Carried.)

REPORT

OF THE

Committee on Legal Biography.

JOHN P. H. TALLMAN.

John P. H. Tallman was born in the town of Washington, Dutchess county, N. Y., on the 19th day of March, 1820, upon the farm of his father, Darius Tallman, who afterwards moved to the State of Iowa.

Mr. Tallman remained upon the farm until he was fifteen years old, when he went to Amenia Seminary where he completed a three years' course of study. He then entered the law office of James Hooker, the Surrogate of Dutchess county, and continued with Mr. Hooker until the latter was succeeded by Virgil D. Bonesteel as Surrogate, into whose office Mr. Tallman then went.

Mr. Tallman was admitted to the bar in 1843. He was clerk of the Surrogate's Court in 1840, and continued in that office for several years, and in 1846 was elected Surrogate of Dutchess County, that being the first election under the new Constitution. At the expiration of his term he was re-elected to that office, and at about the same time was admitted to practice in the United States Courts.

He took an active interest in the organization of the City Bank, about the year 1860, and for thirty years was its attorney. He was an active promoter of many local enterprises, among which were the

Poughkeepsie & Eastern Railroad, the Poughkeepsie City Railroad, and the Poughkeepsie Rural Cemetery. He was also the most active member of the Committee which selected and secured the site for the Hudson River State Hospital for the Insane, and was a member of its first board of trustees. In 1852 he assisted in founding the Poughkeepsie Orphan House and Home for the Friendless, and for several years was one of the Board of Counsellors.

At the time of his death he was one of the trustees of the Vassar Home for Aged Men.

He united with the Methodist Church in 1837, and in 1840 was chiefly instrumental in organizing the Second M. E. Church, which is now the Trinity M. E. Church of Poughkeepsie. He was one of the trustees of that Church, from the time of its organization until his death, and for most of the time was President of the Board. In 1884 he was elected to the General Conference which was held in Philadelphia.

From the time of his admission to the bar to the time of his death, he was actively engaged in the practice of his profession; and at the time of his death was the oldest member of the Dutchess County Bar, with one exception. He was a member of the New York State Bar Association for many years, and at the time of his death was a member of the Executive Committee. Mr. Tallman brought to the Association those accomplishments that gave him an honorable place at the bar. He thoroughly believed in the great objects which the Association was organized to promote. He witnessed with pride and pleasure those objects largely attained; he saw with equal pride and pleasure its advancement to a place at the head of all other organizations of the kind in the

nation. He has gone to join those who, though dead, live in memory, and whose names and careers give lustre to the history of the New York State Bar Association. He was one of the oldest members of the Poughkeepsie Lodge 266, of Free and Accepted Masons.

He died on the 23d day of March, 1895, at Poughkeepsie, N. Y., after a short illness.

JOHN W. O'BRIEN.

John W. O'Brien was born at Auburn, N. Y., October 13th, 1853. His father was from the north of Ireland. His mother was of English and Scotch descent. He prepared for college in the public schools of Auburn and was graduated from Hamilton College in 1873 with high honors. For two years he was principal of a school and for one year an instructor in Brooklyn Polytechnic Institute.

In 1878 he was graduated from Columbia Law School with the degree of LL.B. The same year Hamilton College conferred upon him the degree of M. A. After his admission to the bar he practiced his profession for a few years in Leadville and Denver, Colorado, and then returned to Auburn, his native city, where he formed a partnership with the Hon. Sereno E. Payne, which partnership continued to the time of Mr. O'Brien's death, which occurred on the 5th day of May, 1895. He was for a number of years City Attorney of Auburn and president of its board of education. He was a member of the New York State Constitutional Convention of 1894.

He was a man of scholarly instincts, habits and

attainments. He loved learning and knew what was most worthy to be learned. The influence of his wide reading of the best books was manifest in every phase of his life and in every department of his activity.

He was a man of good natural gifts, well developed and wisely directed toward the accomplishment of useful ends.

As a lawyer he took high rank. His professional ideals were high. He did not change or lower his ethical standard in order to gain the emoluments or the cheap applause of the smart lawyer. He knew that both the law and the lawyer are set for the attainment of righteous results. In his practice he recognized the fact that the profession has its end and its justification in the conduct of human affairs upon the basis of justice.

He has also in a large degree the gifts and temperament of the advocate. He was polished and effective in defense of whatever cause he espoused. This was shown both in the trial of causes and in the argument of appeals.

The work for which he will be best known and that for which he would doubtless most desire to be remembered, was what he did as a member of the Constitutional Convention, and as a lecturer on Municipal Law in the law department of Hamilton College.

In the Convention he deservedly took high rank among the able men composing that body. He was attentive, intelligent, judicious and influential. The fundamental law of the State received benefit from his counsel, his voice and his vote. He was most highly respected by his fellow members for his ability and good sense.

Other men have reaped larger pecuniary rewards from their professional labors; but he did what is infinitely better than that—he steadily upheld its best traditions, and fulfilled its obligations with fidelity.

His character as an honorable man, an upright and able lawyer, and a public spirited citizen, has won for him a place in our memorial records.

PRESIDENTS OF THE ASSOCIATION.

1876-1878.

JOHN K. PORTER.

1878-1880.

(SAMUEL HAND.)

1880-1882.

SHERMAN S. ROGERS.

1882-1884.

WILLIAM C. RUGER.

1884-1885.

ELLIOTT F. SHEPARD.

1885-1887.

DAVID B. HILL.

1887-1889.

MARTIN W. COOKE.

1889-1890.

WILLIAM H. ARNOUX.

1890-1891.

(MATTHEW HALE.)

1891-1892.

GEORGE M. DIVEN.

1892-1894.

J. NEWTON FIERO.

1894-1895.

TRACY C. BECKER.

1895-1896.

WILLIAM H. ROBERTSON.

1896-1897.

EDWARD G. WHITAKER.

SPECIAL COMMITTEES AND DELEGATES.

The President has appointed the following special committees and delegates under resolutions of the association :

COMMITTEE OF ARRANGEMENTS FOR THE NEXT ANNUAL MEETING.

E. D. Ronan.....	Albany, Chairman.
Arthur L. Andrews.....	Albany.
Samuel S. Hatt.....	Albany.
A. J. Nellis.....	Johnstown.
Charles W. Andrews	Syracuse.
John P. Grant.....	Stamford.
E. Merville Page	Hornellsville.
Safford E. North.....	Batavia.

COMMITTEE ON INTERNATIONAL ARBITRATION.

Chairman, WILLIAM D. VEEDER, Brooklyn.

Secretary, CHARLES M. DAVIDSON, Saratoga.

Walter S. Logan.....	New York.
W. Martin Jones.....	Rochester.
Sherman S. Rogers.....	Buffalo.
John I. Gilbert....	Malone.
Charles A. Deshon.....	New York.
William H. Robertson.....	Katonah.
Edward G. Whitaker.....	New York.

Advisory Members.

Hon. Chauncey M. Depew.....	New York.
John B. Moore.....	Columbia College.

COMMITTEE TO OBTAIN ROOM FORMERLY OCCUPIED BY THE ASSOCIATION NEAR THE COURT ROOM OF THE COURT OF APPEALS.

A. H. Sawyer	Watertown.
E. A. Bedell	Albany.
S. P. Nash.....	New York.

COMMITTEE ON REVISION OF STATUTES.

Daniel S. Remsen 69 Wall street, New York.
 Robert T. Turner Elmira.
 Francis Lynde Stetson 45 Wall street, New York.
 James S. Gluck Buffalo.
 Zerah S. Westbrook Amsterdam.

DELEGATES TO AMERICAN BAR ASSOCIATION.

Hon. Chauncey M. Depew New York.
 Charles J. Buchanan Albany.
 Elbridge L. Adams Rochester.

OFFICERS AND STANDING COMMITTEES OF NEW YORK STATE BAR ASSOCIATION.

PRESIDENT,
EDWARD G. WHITAKER, NEW YORK.

VICE-PRESIDENTS.

First District..... WALTER S. LOGAN..... New York.
Second District... EDWARD T. LOVATT..... Tarrytown.
Third District... EDWARD A. BEDELL..... Albany.
Fourth District... JOHN D. WENDELL..... Fort Plain.
Fifth District.... CEYLON H. LEWIS Syracuse.
Sixth District... JOHN B. STANCHFIELD..... Elmira.
Seventh District.. CHARLES T. SAXTON..... Clyde.
Eighth District... JOHN E. POUND..... Lockport.

SECRETARY.

L. B. PROCTOR..... Albany.

TREASURER.

ALBERT HESSBERG..... Albany.

CORRESPONDING SECRETARY.

AMASA J. PARKER, JR..... Albany.

EXECUTIVE COMMITTEE.

GRENVILLE M. INGLESBE, SANDY HILL, *Chairman.*
CHARES J. BUCHANAN, ALBANY, *Secretary.*

First District. Gilbert Ray Hawes, Robert C. Alexander,
Elihu Root.

Second District. William H. Robertson, Irving Browne, Chas.
F. Cossum.

Third District. James A. Betts, Chas. J. Buchanan, R. A.
Parmenter.

Fourth District. Grenville M. Inglesbe, Jeremiah Keck,
Chas. M. Davison.

Fifth District. A. B. Steele, Elon R. Brown, G. S. Piper.

Sixth District. Francis R. Gilbert, John A. Reynolds, Al-
bert F. Gladding.

Seventh District. Nathaniel Foote, Charles McLouth, Fred. W. Noyes.

Eighth District. Porter Norton, C. Z. Lincoln, Tracy C. Becker.

COMMITTEE ON LAW REFORM.

LOUIS MARSHALL, NEW YORK, *Chairman.*

LOUIS M. BROWN, GLENS FALLS, *Secretary:*

First District. Louis Marshall, Wm. B. Hornblower, William Sulzer.

Second District. Michael H. Hirschberg, Wm. D. Veeder, Robert F. Wilkinson.

Third District. John J. Linson, R. G. Scherer, Hugh W. McClellan

Fourth District. Zerah S. Westbrook, Louis M. Brown, Andrew J. Nellis.

Fifth District. W. C. Prescott, A. H. Sawyer, H. J. Cookinham.

Sixth District. George M. Diven, Charles A. Collin, Joseph Mason.

Seventh District. Irwin W. Near, Elbridge L. Adams, James A. Robson.

Eighth District. Adelbert Moot, Ansley Wilcox, Leroy Parker.

COMMITTEE ON ADMISSIONS.

JOHN WINSLOW, BROOKLYN, *Chairman.*

ALBERT H. SEWELL, WALTON, *Secretary.*

First District. S. L. H. Ward, Thos. G. Evans, R. T. B. Easton, A. V. W. Van Vechten.

Second District. Arthur S. Tompkins, Fred E. Ackerman, Waldo G. Morse, J. Harvey Cook.

Third District. Emory A. Chase, F. Arthur Westbrook, John Van Schaick, Timothy F. Bush.

Fourth District. J. Sanford Potter, L. M. King, Jesse S. L'Amoreaux, Wallace T. Foote, Jr.

Fifth District. Michael F. Driscoll, Charles Bell, W. W. Stranahan, N. E. Kernan.

Sixth District. Howard D. Newton, Albert H. Sewell, Stephen C. Millard, J. F. Lee Tucker.

Seventh District. Henry G. Danforth, Merton E. Lewis, C. D. Kiehel, John Van Sickle.

Eighth District. E. M. Bartlett, A. A. Van Dusen, S. T. Viele, S. E. North.

COMMITTEE ON GRIEVANCES.

JOHN SANDERSON, CATSKILL, *Chairman.*

EDWARD G. HERENDEN, ELMIRA, *Secretary.*

First District. John E. Parsons, Daniel G. Rollins, Edward Mitchell.

Second District. Garrett J. Garrettson, Thos. E. Pearsall, Jonn F. Brennan.

Third District. Matthew Hale, William J. Roche, John Sanderson.

Fourth District. Daniel M. Westfall, Richard L. Hand, Charles C. Lester.

Fifth District. Russell S. Johnson, H. W. Bentley, J. A. McConnell.

Sixth District. Charles R. Hall, Edward G. Herendeen, John S. Smith.

Seventh District. Frederick L. Manning, P. M. French; Joseph S. Hunn.

Eighth District. David Miller, H. H. Seymour, Frederick W. Kruse.

COMMITTEE ON LEGAL BIOGRAPHY.

JOHN I. GILBERT, MALONE, *Chairman.*

FRANCIS A. SMITH, ELIZABETHTOWN, *Secretary.*

First District. A. J. Dittenhoffer, John Brooks Leavitt.

Second District. Leonard B. Sackett, Isaac N. Mills.

Third District. Joseph A. Lawson, John W. Searing.

Fourth District. Francis A. Smith, John I. Gilbert.

Fifth District. S. C. Huntington, Jr., Edward N. Smith.

Sixth District. Clifford S. Arms, John E. Smlth.

Seventh District. Charles A. Hawley, Fletcher C. Peck.

Eighth District. Daniel H. McMillan, William B. Hoyt.

HONORARY MEMBERS.

(Under article 3 of the Constitution honorary membership is provided for as follows: The Judges of the United States courts residing in this State, the Judges of the Court of Appeals, and the several Justices of the Supreme Court of this State shall, during their respective terms of office, be honorary members of this Association. Other honorary members may be elected by the Association. Pursuant to article 3 of the Association, at the annual meeting, September, 1882 (Reports, vol. vi, p. 138), unanimously.

Resolved, That this Association admits among the honorary members such resident members of the bar of the State of New York as may at any time hold any of the following-named offices, to-wit: President of the United States, Vice-President of the United States, members of the President's Cabinet, United States Senators from this State, Governor of this State, Attorney-General of this State, Envoy or Minister of the United States to any foreign country; member appointed on the part of the United States of any international tribunal; and that the Secretary be directed to enroll them accordingly.)

The following active members have become honorary members of the Association :

Angle, James L.	Rochester, N. Y.
Bartlett, Edward T.	20 Union Sq., E. N. Y.
Bookstaver, Henry W.	New York City.
Bradley, George B.	Corning.
Cleveland, Grover.	Washington, D. C.
Edwards, Samuel.	Hudson.
Evarts, William M.	New York City.
Fish, Frothingham.	Fultonville.
Hancock, T. E.	Syracuse.
Hill, David B.	Albany.
Kennedy, George W.	Syracuse.
Lambert, John S.	Fredonia.

Patterson, Edward.....	New York City.
Peckham, Rufus W.	Albany.
Putnam, John R.	Saratoga.
Rosendale, Simon W.....	Albany.
Russell, Leslie W	Canton.
Stover, Martin L.....	Amsterdam.
Vann, Irving G.....	Syracuse.
Wright, Maurice L.....	Mexico.

The following have been elected honorary members:

Bigelow, Hon. Melville M., LL.D....	Cambridge, Mass.
Brewer, Hon David J.....	Washington, D. C.
Cooley, Hon. Thomas M.....	Washington, D. C.
Dolph, Hon. Joseph N	Washington, D. C.
Hitchcock, Hon. Henry	St. Louis, Mo.
Mellor, Hon. John W., Q. C	London, Eng.
Parker, Hon. Alton B.....	Kingston.
Stevenson, Hon Adlai E.....	Washington, D. C.
Stone, Ralph.....	Grand Rapids, Mich.
White, Truman C.....	Buffalo, N. Y.
Wise, Hon. John S.....	New York City.

LIFE MEMBERS OF THE NEW YORK STATE BAR ASSOCIATION.



Alexander, Robert C.....	7 Nassau street, New York.
Arnold, John H. V.....	206 Broadway, New York.
Arnoux, William Henry.....	18 Wall street, New York.
Bangs, Francis S.....	45 Wall street, New York.
Barnard, Frederick.....	Poughkeepsie.
Blatchford, Samuel A.....	29 Nassau street, New York.
Bogert, Henry L.	99 Nassau street, New York.
Boyd, John Gilmore.....	41 Park Row, New York.
Bradley, Leonard A.....	62 Wall street, New York.
Brown, Louis M.....	Glens Falls.
Bruno, Richard M.....	146 Broadway, New York.
Burrill, John E.....	68 William street, New York.
Calvin, Delano C.....	7 Nassau street, New York.
Campbell, Robert B.....	71 Wall street, New York.
Coudert, Frederick R.....	68 William street, New York.
Crosby, Ernest H.....	120 Broadway, New York.
Dayton, Charles W.....	3 Broad street, New York.
Delafield, Albert.....	45 Cedar street, New York.
DeWitt, George G., Jr.....	88 Nassau street, New York.
Depew, Chauncey M.....	Grand Central Depot.
Dickerson, Edward N.....	15 Wall street, New York.
Dixon, William P.....	80 Broadway, New York.
Gerry, Elbridge T.....	261 Broadway, New York.
Goelet, Robert.....	88 Nassau street, New York.
Gray, Joseph H.....	71 Wall street, New York.
Hand, Richard L.....	Elizabethtown.
Hawes, Gilbert R.....	120 Broadway, New York.
Hill, John L.....	59 Liberty street, New York.
Hubbard, Thomas H.....	111 Broadway, New York.
Hunt, Ward, Jr.....	Utica.
Irwin, William.....	229 Broadway, New York.
Jackson, Theodore F.....	Brooklyn.
Lansing, Abraham.....	Albany.
Larocque, Joseph.....	35 William street, New York.
Leeds, Theodore E.....	18 Wall street, New York.

Lydecker, Charles E.....	120 Broadway, New York.
Mann, Frederick H.....	54 Wall street, New York.
Martin, Bradley.. ..	22 W. 20th street, New York.
McCook, John J.....	120 Broadway, New York.
McElhinney, James W.....	132 Nassau street, New York.
Moses, Raphael J., Jr.....	120 Broadway, New York.
Norwood, Carlisle, Jr.	140 Nassau street, New York.
Olney, James B.....	Catskill.
Onderdonk, Andrew J.	60 Wall street, New York.
Opdyke, William S.....	20 Nassau street, New York.
Parsons, George W.....	New York.
Phelps, Wm. Walter.....	2 Wall street, New York.
Pruyn, John V. L.....	Albany.
Ransom, Frank A.....	New York.
Sheldon, Edward W.....	45 Wall street, New York.
Stetson, Francis L.....	45 William street, New York.
Stiger, William E.	150 Broadway, New York.
Toucey, Donald M.....	261 Broadway, New York.
Van Vechten, A. V. W.....	45 Pine street, New York.
Ward, Sylvester L. H.....	65 Wall street, New York.
Waterbury, Nelson J., Jr.....	55 William street, New York.
Watson, Benjamin F.....	Cor. B'way and Wall st., N. Y.

MEMBERS OF THE NEW YORK STATE BAR ASSOCIATION.

Abbott, Austin.....	71 Broadway, New York.
Abbott, John B.....	Geneseo.
Acker, Milo M.....	Hornellsville.
Ackerman, Fred E.....	Poughkeepsie.
Adams, Elbridge L.....	Rochester.
Adams, Charles F....	32 Nassau street, New York.
Adams, George B.....	1 Broadway, New York.
Aiken, E. C.....	Auburn.
Aitken, William B.....	69 Wall street, New York.
Aitkin, John.....	137 Broadway, New York.
Alden, Carlos C.....	32 Nassau street, New York.
Aldis, J. P.....	Norwich.
Alexander, Henry M.....	120 Broadway, New York.
Alexander, Robert C.....	7 Nassau street, New York.
Allison, Thomas.....	59 Liberty street, New York.
Anderson, Henry H.....	35 Wall street, New York.
Andrews, Arthur L.....	Albany.
Andrews, Charles W.....	Syracuse.
Andrews, George C.....	Tarrytown, New York.
Andrews, Robert E.....	Hudson.
Aplington, Henry.....	6 Harrison street, New York.
Armstrong, James.....	192 Broadway, New York.
Armstrong, R. S.....	Cuba.
Armstrong, William W.....	Rochester.
Arnold, C. W. H.....	Poughkeepsie.
Arnold, John H. V.....	206 Broadway, New York.
Arnold, Lynn J.....	Cooperstown.
Arnoux, William Henry.....	18 Wall street, New York.
Ashley, Geo. B.....	145 Broadway, New York.
Atwater, Henry G.....	115 Broadway, New York.
Austin, Mortimer V.....	Auburn.
Bachman, George L.....	Geneva.
Backus, Henry C.....	165 Broadway, New York.
Baker, A. D. L.....	Gloversville.

Baker, C. S.	Rochester.
Bailey, Charles H.	122 Bowery, New York.
Baldwin, Edwin.	55 Liberty street, New York.
Ballantine, William A.	186 W. End Ave., New York.
Banks, Francis S.	45 Wall street, New York.
Banker, N. M.	Gloversville.
Barkin, Lyman, J.	Starkey.
Barnard, Frederick.	Poughkeepsie.
Barnard, Horace.	96 Broadway, New York.
Barnes, William.	Albany.
Barnum, Frederick S.	Brewster.
Barrett, H. R.	White Plains.
Bartlett, E. M.	Warsaw.
Bartlett, Franklin.	168 Nassau street, New York.
Batcheller, George S.	1022 Vermont Ave., Washing- ton, D. C.
Baxter, L. W.	Cobleskill.
Baylies, Gustavus.	290 Broadway, N. Y.
Beall, J. A.	149 Broadway, N. Y.
Bearup, David.	Theresa.
Becker, August.	22 W. Senaca street, Buffalo.
Becker, Tracy C.	Buffalo.
Bedell, Edwin A.	Albany.
Beekman, Gerard.	47 Cedar street, New York.
Beekman, James W.	149 Broadway, New York.
Behrends, Jesse H.	Buffalo.
Belknap, E. C.	Unadilla.
Bell, Charles.	Herkimer.
Bell, Edward W.	18 Cortland street, New York.
Benedict, Robert D.	68 Wall street, New York.
Benn, E. H.	154 Nassau street, New York.
Bentley, H. W.	Boonville.
Benton, Samuel H.	58 William street, New York.
Berry, Arthur.	200 Broadway, New York.
Berry, Carroll.	200 Broadway, New York.
Betts, James A.	Kingston.
Bischoff, Henry, Jr.	Tyron Row, New York.
Bishop, James L.	115 Broadway, New York.
Bissell, Wilson S.	Buffalo.
Bixby, Joel B.	Norwich.
Blackmar, Abel E.	55 Liberty street, New York.

Blanchard, James A.....	154 Nassau street, New York.
Blandy, Charles.....	15 Wall street, New York.
Blatchford, Samuel A.....	29 Nassau street, New York.
Bloodgood, Clarence E.....	Catskill.
Blumensteil, Alex.....	309 Broadway, New York.
Bogert, Henry L.....	99 Nassau street, New York.
Bomeisler, L. E.....	111 Broadway, New York.
Borst, H. V	Amsterdam.
Boston, Charles A.....	66 Broadway, New York.
Bowen, James R.....	28 World Bldg., New York.
Bowers, John M.	54 William street, New York.
Boyd, John Gilmore.....	41 Park Row, New York.
Boyle, John W.....	Utica.
Bradley, Leonard A.....	62 Wall street, New York.
Brainerd, Cephas	47 Cedar street, New York.
Brainerd, Cephas, Jr.....	47 Cedar street, New York.
Brass, Richard W.....	Albany.
Brennan, John F.....	Yonkers.
Briesen, Arthur.....	229 Broadway, New York.
Brinnier, William D.....	Kingston.
Bronk, William Rea.....	2 Wall street, New York.
Brown, D. Walter.....	New York.
Brown, Edward H.....	253 Broadway, New York.
Brown, Elon R.....	Watertown.
Brown, Irving.....	Haverstraw.
Brown, Levi H.	Watertown.
Brown, Louis M.....	Glens Falls.
Brown, Samuel H.....	Poughkeepsie.
Brown, Selden S.....	Rochester.
Brown, Stephen.....	Glens Falls.
Brownell, George F.....	Buffalo.
Bruno, Richard M.....	146 Broadway, New York.
Buchanan, C. J.....	Albany.
Buckham, George.....	New York.
Burnham, E. K.....	Newark.
Burnham, F. A.....	309 Broadway, New York.
Burr, William P.....	206 Broadway, New York.
Burrill, John E	68 W. Chambers st., New York.
Bush, J. Adriance.....	100 Broadway, New York.
Bush, T. F.....	Monticello.
Bushe, Eugene L.....	150 Broadway, New York.

Bushnell, C. M.....	Buffalo.
Butcher, David F.....	18 Wall street, New York.
Butcher, William W....	26 Court street, Brooklyn.
Butler, William Allen.....	54 Wall street, New York.
Cahill, John H.....	18 Cortland street, New York.
Calvin, Delano C.....	7 Nassau street, New York.
Cameron, Frederick W.....	Albany.
Campbell, A. V.....	54 Williams street, New York.
Campbell, Robert B.....	71 Wall street, New York.
Candler, Flamen B.....	48 Wall street, New York.
Cannon, Sylvanus T.....	115 Broadway, New York.
Cantine, Peter.....	Saugerties.
Card, Albert M.....	93-95 Nassau st., New York.
Cardoza, Michael H.....	120 Broadway, New York.
Carlisle, John N.....	Watertown.
Carpenter, Benjamin F.....	93 Nassau street, New York.
Carpenter, George H.	Liberty, Sullivan Co., N. Y.
Carpenter, James E..	62 Wall street, New York.
Carpenter, Philip.....	38 Park Row, New York.
Carr, Lewis E	Albany.
Carter, James C.....	54 Wall street, New York.
Carter, Walter S.....	96 Broadway, New York.
Chambers, William P....	59 Liberty street, New York.
Chase, Emory A.....	Catskill.
Chester, Alden.....	Albany.
Chipp, Howard, Jr.....	Rondout.
Clapp, John H.....	50 Broadway, New York.
Clark, H. Austin.....	Oswego.
Clark, Jefferson.....	32 Nassau street, New York.
Clarke, Samuel B.....	32 Nassau street, New York.
Clearwater, A. T.....	Kingston.
Clement, George A.....	Drexel Building, New York.
Cleveland, Grover.....	Washington, D. C.
Clinch, Edward S.....	115 Broadway, New York.
Clinton, Eugene.....	Greene.
Clough, M. T.....	Troy.
Coggeshall, Edwin W.	166 Montague st., Brooklyn.
Cohen, William N.....	22 William street, New York.
Coleman, Charles W.....	203 Broadway, New York.
Coleman, George S.....	80 Broadway, New York.

Collier, Casper P.....	Hudson.
Collier, Frederick J.....	Hudson.
Collin, C. A.....	32 Nassau street, New York.
Compton, A. T.....	237 Broadway, New York.
Comstock, George C.....	59 Liberty street, New York.
Conger, Clarence R.....	37 Liberty street, New York.
Connelly, Arthur C.....	Kingston.
Conway, Martin D.....	Albany.
Cook, J. Hervey.....	Fishkill-on-Hudson.
Cook, John T.....	Albany.
Cooke, Martin W.....	Rochester.
Cookinham, H. J.....	Utica.
Coon, S. Mortimer... ..	Oswego.
Cossum, Charles F.....	Poughkeepsie.
Coudert, Charles.....	68-70 William st., New York.
Coudert, Frederick R.....	68 William street, New York.
Countryman, Edwin.....	Albany.
Cowen, Esek	253 Broadway, New York.
Cowles, Charles P.....	3 Broad street, New York.
Coxe, Macgrane.....	Southfield, Orange Co., N. Y.
Coyne, Edward P.....	Geneseo.
Coyne, John H.....	Geneseo.
Crane, Alexander B.....	41 Wall street, New York.
Cravath, Paul D.....	120 Broadway, New York.
Crawford, Gilbert H	229 Broadway, New York.
Crawford, James F.....	Cohoes.
Crook, Abel.....	93 Nassau street, New York.
Crosby, Darius G	147 Nassau street, New York.
Crosby, Ernest H.....	120 Broadway, N. Y.
Crummy, Safford A.....	Poughkeepsie.
Cuming, James R.....	2 Wall street, New York.
Cuneen, John	85 West Eagle street, Buffalo.
Curley, John P.....	Troy.
Curtis, George B.....	Binghamton.
Curtis, William E.....	45 William street, New York.
Daly, Charles P.....	11 William street, New York
Danaher, Franklin M.....	Albany.
Danforth, Elliot.....	Bainbridge.
Danforth, Henry G.....	Rochester.
Daniels, Charles H.....	95 Nassau street, New York.

Davenport, Nelson.....	17 First street, Troy.
Davies, Julien T.....	32 Nassau street, New York.
Davies, William G.....	32 Nassau street, New York.
Davis, M. E.....	Rochester.
Davison, Charles A.....	69 Wall street, New York.
Davison, Charles M.....	Saratoga Springs.
Davison, Charles Stewart.....	56 Wall street, New York.
Davy, Cassius C.....	Rochester.
Daw, George W.....	Troy.
Dayton, Charles W.....	3 Broad street, New York.
Dean, David J.....	2 Tryon Row, New York.
Delafield, Albert.....	45 Cedar street, New York.
De La Mare, James C.....	110 E. 125th street, New York.
Dennis, Leonidas.....	3 Broad street, New York.
Depew, Chauncey M.....	Grand Central Depot, N. Y
Deshon, Charles A.....	237 Broadway, New York.
Desmond, John.....	Rochester.
Devendorf, Irving R.....	Herkimer.
Devlin, Francis C.....	111 Broadway, New York.
De Witt, George G., Jr.....	88 Nassau street, New York.
Dexter, Stanley W.....	71 Wall street, New York.
Dickerson, Edward N.....	15 Wall street, New York.
Dickey, William D.....	Newburg.
Dike, Norman S.....	Brooklyn.
Dill, Charles G.....	Middletown.
Dillingham, A. J.....	Schenectady.
Dillon, John F.....	195 Broadway, New York.
Dittenhoefer, Abram J.....	96 Broadway, New York.
Dittenhoefer, Irving M.....	96 Broadway, New York.
Diven, George M.....	Elmira.
Dixon, William P.....	80 Broadway, New York.
Dobie, David F.....	Plattsburg.
Dodd, Samuel C. T.....	26 Broadway, New York.
Donohue, Charles.....	203 Broadway, New York.
Donohue, Frank Lawrence....	203 Broadway, New York.
Dos Passos, John R.....	73 Broadway, New York.
Doty, Spencer C.....	99 Nassau street, New York.
Dougherty, J. Hampden.....	7 Nassau street, New York.
Douglas, Edward W.....	Troy.
Downs, F. W.....	Binghamton.
Doyle, Louis F.....	41 Park Row, New York.

- Driscoll, Michael E..... Syracuse.
 Drysdale, John M..... 111 Broadway, New York.
 Dugan, Patrick C..... Albany.
 Dulon, Rudolf..... 115 Broadway, New York.
 Dunne, James..... Stewart Building, New York.
 Dunwell, J. W..... Lyons.
 Dupre, Ovide..... 290 Broadway, New York.
 Durand, John S..... 146 Broadway, New York.
 Durfee, H. R..... Palmyra.
 Dykman, H. T..... White Plains.
- Earle, Charles M..... 106 Fulton street, New York.
 Eastman, George W. Roslyn.
 Easton, Robert T. B..... 120 Broadway, New York.
 Eaton, James W..... Albany.
 Edgar, Charles H..... 5 Beekman street, New York.
 Edmonds, Walter D..... 5 Beekman street, New York.
 Edwards, Walter..... 120 Broadway, New York.
 Ellkins, Stephen B..... 1 Broadway, New York.
 Elkus, Abraham I..... 56 Pine street, New York.
 Ellis, George W..... 155 Broadway, New York.
 Ellsworth, Timothy E..... Lockport.
 Englehart, Isaac A 291 Broadway, New York.
 Esmond, Darwin W..... Newburg.
 Eustace, Alexander C Elmira.
 Eustis, John E 80 Broadway, New York.
 Evans, Thomas G..... 49 Nassau street, New York.
 Ewing, Thomas 41 Wall street, New York.
- Fagan, Thomas S..... Troy.
 Fancher, James R..... 111 Broadway, New York.
 Farman, Elbert E Warsaw.
 Farrar, Alonzo H Kinderhook.
 Feitner, Thomas L..... 56 Wall street, New York.
 Ferguson, Frank C..... Buffalo.
 Fiero, J. Newton Albany.
 Fiero, William P..... White Plains.
 Filkins, Stanley..... Medina.
 Fine, Christopher..... 114 Nassau street, New York.
 Fishel, Eugene Babylon.
 Fish, Hamilton..... 57 Broadway, New York.

Fish, Leonard F.....	Fultonville.
Fish, R. Bronk	Fultonville.
Fitts, George H	Cohoes.
Fleischman, Simon.....	Buffalo, New York.
Fletcher, George H.....	170 Broadway, New York.
Foley, John.....	Saratoga Springs.
Foote, Nathaniel	Rochester.
Foote, Wallace T., Jr.....	Port Henry.
Ford, Wayland F.....	La Fargeville.
Ford, William H.....	51 Liberty street, New York.
Foster, Roger	35 Wall street, New York.
Fowler, Edward S	87 Nassau street, New York.
Fowler, James I	Jamestown.
Frankenheimer, John.....	15 Wall street, New York.
Franklin, Benjamin	38 Park Row, New York.
Franklin, Ruford.....	45 Broadway, New York.
Fraser, McIntyre.....	Johnstown.
Fraye, Eugene.....	56 Pine street, New York.
Fredenburgh, Walter S	Kingston
Fuller, Paul.....	70 William street, New York.
Fuller, T. K	Syracuse.
Gardner, John M.....	Newburg.
Garretson, Garret.....	Newtown.
Gerry, Elbridge T'	261 Broadway, New York.
Gibbs, Clinton B.....	Buffalo.
Gibson, James.....	Salem.
Gibson, William J.....	32 Nassau street, New York.
Gifford, James M.....	58 William street, New York.
Gilbert, Frederick L.....	111 Broadway, New York.
Gilbert, F. R	Albany.
Gilbert, Jasper W.....	31 Nassau street, New York.
Gilbert, John I.	Malone.
Gillen, Wm W.....	Jamaica.
Gladding, Albert F.....	Norwich.
Gleason, John B.....	155 Broadway, New York.
Gleason, John H.....	Albany.
Gluck, James F.....	Buffalo.
Goelet, Robert.....	88 Nassau street, New York.
Goff, Frank M.....	Rochester.
Goodelle, William P.....	Syracuse.
Goodhart, Morris.....	62 William street, New York.

Goodwin, Almon.....	2 Wall street, New York.
Goven, Raphael R.	45 Cedar street, New York.
Gowdey, S. S.	275 Broadway, New York.
Graham, James G., Jr.	Newburg.
Grant, John P.	Stamford.
Gray, Joseph H.	71 Wall street, New York.
Green, Andrew H.	214 Broadway, New York.
Green, John B.	280 Broadway, New York.
Greenbaum, Samuel.	170 Broadway, New York.
Greene George E.	Hoosick Falls.
Greenfield, George J.	35 Broadway, New York.
Gregerick, Leonard A.	County Court House, N. Y.
Griffin, Charles H.	Cot. Exch. Bldg, New York.
Griffin, Daniel G.	Watertown.
Griswold, Stephen B.	Albany.
Gross, Michael C.	3 Chambers street, New York.
Gumbleton, Henry A.	271 Broadway, New York.
Guthrie, William D.	40 Wall street, New York.
Hale, Henry W.	Buffalo.
Hale, Matthew.	Albany.
Hall, C. R.	Albany.
Hall, Ernest.	64 William street, New York.
Hall, Lewis B.	Albany.
Haller, Fred. C.	Buffalo.
Halsey, George A.	44 Broadway, New York.
Ham, Fred. C.	Albany.
Ham, Thomas H.	Albany.
Hamburger, Samuel B.	291 Broadway, New York.
Hamilton, William H.	160 Broadway, New York.
Hammond, William W.	Buffalo.
Hand, Richard L.	Elizabethtown.
Hanford, E. H.	Walton, N. Y.
Hardenburgh, J. E.	Rosendale.
Harrington, H. H.	New Berlin.
Harris, A. H.	Rochester.
Harris, Edward.	Rochester.
Hart, Monmouth G.	White Plains.
Hasbrouck, Louis.	Ogdensburg.
Hatch, Edward S.	55 Liberty street, New York.
Hatt, Samuel S.	Albany.
Hawes, Gilbert R.	120 Broadway, New York.

Hawkins, Eugene D.....	111 Broadway, New York.
Hawley, Charles A.....	Seneca Falls.
Hawley, David.....	"Maplehurst," Yonkers.
Hays, Daniel P.....	170 Broadway, New York.
Hazel, John.....	Buffalo.
Headley, Russell.....	Newburg.
Heaten, Willis E.	Hoosick Falls.
Hedges, Job E.....	2 Wall street, New York.
Heermance, Martin.....	Poughkeepsie.
Herendeen, E. G	Elmira.
Herrman, Moses.....	229 Broadway, New York.
Hessberg, Albert.....	Albany.
Hicks, Horace L.....	Albany.
Hildreth, J. Homer.....	280 Broadway, New York.
Hill, Edward B.....	45 Wall street, New York.
Hill, George.....	206 Broadway, New York.
Hill, Henry W.....	Buffalo.
Hill, James K.....	45 William street, New York.
Hill, John L.....	59 Liberty street, New York.
Hinrichs, Frederick W.....	115 Broadway, New York.
Hinsdale, E. B.....	192 Broadway, New York.
Hirschberg, M. H.....	Newburg.
Hiscock, Frank.....	Syracuse.
Hitt, Galen R.....	Albany
Hoadley, George.....	22 William street, New York.
Hoag, J. E.....	Troy.
Hobbs, Edward H.....	58 Pine street, New York.
Hogan, John W.....	Syracuse.
Holbrook, Edwin M.....	Albany.
Holden, Daniel J.....	68-70 William st., New York.
Hollister, William H. Jr..	Troy.
Holmes, Daniel.....	Brockport.
Holmes, John B.....	Troy.
Hornblower, William B.....	45 William street, New York.
Horton, Cyrus W.....	Peekskill.
Horton, Charles D.....	White Plains.
Hotchkiss, Henry D.....	32 Nassau street, New York.
Hotchkiss, W. H.....	Buffalo.
Hottenroth, Adolph C.....	291 Broadway, New York.
Hoysradt, Albert.....	Hudson.
Hubbard, Henry.....	195 Broadway, New York.

Hubbard, Thomas H.....	111 Broadway, New York.
Hudson, James A.....	Aldrich court, New York.
Hughes, Charles E.....	96 Broadway, New York.
Hun, Marcus T.....	Albany.
Hunn, Joseph S.....	Rochester.
Hunt, James M.....	31 Pine street, New York.
Hunt, Ward, Jr.....	Utica.
Huntington, S. C., Jr.	Pulaski.
Huson, Calvin J.....	Albany.
Hyde, E. Francis.....	54 Wall street, New York.
Hyde, William H.	Oxford.
Hyland, J. A.....	45 Broadway, New York.
Ingalsbe, Grenville M.....	Sandy Hill.
Ingersoll, Robert G.....	40 Wall street, New York.
Ingraham, Richard.....	16 Court street, Brooklyn.
Irish, Charles G.....	Syracuse.
Irwin, William.....	229 Broadway, New York.
Isaacs, Isaac S.....	27 Pine street, New York.
Isaacs, Myer S.....	27 Pine street, New York.
Jackson, Theodore F.....	Brooklyn.
Jacobs, Abraham L.....	140 Nassau street, New York.
Jacques, Eden S.....	Poughkeepsie.
James, Edward C.....	31 Nassau street, New York.
Jay, William.....	48 Wall street, New York.
Jenkins, Walter S.....	Buffalo.
Jenks, W. F.....	Norwich.
Jennings, Frederick B.....	15 Broad street, New York.
Jennings, W. Irving.....	Catskill.
Jessup, H. W.....	30 Broad street, New York.
Johnson, Charles H.....	7 Beekman street, New York.
Johnson, I. S.....	Warsaw.
Johnson, Russell S.....	Camden.
Jones, Dwight A.....	55 Liberty street, New York.
Jones, Hadley.....	Little Falls.
Jones, Paul.....	7 Beekman street, New York.
Jones, Lawrence T.....	Syracuse.
Jones, W. Martin.....	Rochester.
Keck, Jeremiah.....	Johnstown.
Keck, Philip.....	Johnstown.
Keene, Roswell W.....	280 Broadway, New York.

Kellogg, Frederick R.....	27 Pine street, New York.
Kellogg, John M.....	Ogdensburg.
Kellogg, Justin.....	Troy.
Kellogg, L. Lafin.....	120 Broadway, New York.
Kelly, Richard B.....	237 Broadway, New York.
Kelsey, Otto.....	Geneseo.
Kent, Edwin C.....	59 Liberty street, New York.
Kent, William	66 Maiden Lane, New York.
Kenyon, William H.....	Oswego.
Kenyon, William S.....	Kingston.
Keogh, Martin J.....	Temple Court, New York.
Kernan, John D.....	37 Liberty street, New York.
Kernan, Nicholas E.....	Utica.
Kernochan, J. F.....	45 Pine street, New York.
Ketchum, Alexander P.....	59 Cotton Exch., New York.
Kidder, Camillus G.....	27 William street, New York.
Kiddle, Alfred W.....	38 Park Row, New York.
Kiehel, C. D.....	Rochester.
Kilby, Allen E.....	Carthage.
King, Louis M.....	Schenectady.
Kingsbury, H. C.....	Westfield.
Kingsley, Charles F.....	Bath, Steuben county.
Kissam, Brewster.....	170 Broadway, New York.
Kling, Abram.....	96 Broadway, New York.
Knapp, C. J.....	Lowville.
Knapp, Martin A.....	Syracuse.
Knox, Charles H.....	54 William street, New York.
Knox, John M.....	80 William street, New York.
Kobbe, George C	44 Wall street, New York.
Kruse, Frederick W.....	Olean.
Kursheedt, Manuel A.....	35 Warren street, New York.
Laimbeer, Francis E.....	206 Broadway, New York.
L'Amoreaux, Jesse S.....	Ballston Spa
Lambden, John F.....	New Rochelle.
Lansing, Abraham	Albany.
Lansing, James.....	Troy.
Lansing, John.....	Watertown.
Lardner, William J.....	115 Broadway, New York.
Larocque, Joseph	35 William street, New York.
Lauterbach, Edward.....	22 William street, New York.

Lawson, Joseph A.....	Albany.
Lawton, Francis.....	170 Broadway, New York.
Leavitt, Edwin R.....	132 Nassau street, New York.
Leavitt, John B.....	111 Broadway, New York.
Lee, Morris E.....	Cape Vincent.
Leeds, Theodore E.....	18 Wall street, New York.
Lester, Charles C.....	Saratoga Springs.
Lester, Willard.....	Saratoga Springs.
Leventritt, David.....	280 Broadway, New York.
Levy, Jefferson M.....	32 Nassau street, New York.
Lewis, Ceylon H.....	Syracuse.
Lillie, T. A.....	Whitehall.
Lincoln, C. Z.....	Little Valley.
Lindley, John.....	1 Broadway, New York.
Lindsay, John.....	214-216 Broadway, New York.
Linson, John J.....	Kingston.
Little, R. F.....	62 Wall street, New York.
Lockwood, Luke A.....	115 Broadway, New York.
Logan, Walter S.....	58 William street, New York.
Lovatt, E. T.....	Tarrytown.
Lozier, Theodore F.....	80 Broadway, New York.
Ludden, William J.....	Troy.
Ludden, J. E.....	132 Nassau street, New York.
Lydecker, Charles E.....	120 Broadway, New York.
Lyons, Reuben R.....	Bath, Steuben county.
Mackellar, George M.	19 Liberty street, New York.
Malcolm, James F.....	49 Chambers street, New York.
Mallory, George H.....	Albany.
Mandeville, H. C.	Elmira.
Mann, Frederick H.....	54 Wall street, New York.
Manning, Frederick L.....	Waterloo.
Marrin, William J.....	52 Wall street, New York.
Marsh, Valentine.	132 Nassau street, New York.
Marshall, Jonathan.....	247 Broadway, New York.
Marshall, Louis.....	30 Broad street, New York.
Martin, Bradley.....	22 W. 20th street, New York.
Martin, Newell.....	7 Nassau street, New York.
Mason, Joseph.....	Hamilton.
Masten, Arthur H.....	49 Wall street, New York.
Mather, Frank J.....	115 Broadway, New York.

Mayer, William E. C.....	189 Montague st., Brooklyn.
Maynard, Reuben L.....	32 Nassau street, New York.
McAdam, Quentin.....	56 Broadway, New York.
McCauley, William, Jr.....	Haverstraw.
McClellan, Hugh W.....	Chatham.
McConnell, J. A.....	Watertown.
McCook, John J.....	120 Broadway, New York.
McCormick, James A.....	Syracuse.
McCurdy, Delos.....	2 Wall street, New York.
McCutcheon, S. St. J.....	170 Broadway, New York.
McDonough, John T.....	Albany.
McElhinney, James W.....	132 Nassau street, New York.
McIntyre, S. B.....	Palmyra.
McLaughlin, Chester B.....	Port Henry.
McLean, Eugene.....	West Troy.
McLouth, Charles.....	Palmyra.
McMahon, Fulton.....	111 Broadway, New York.
McMahon, J. D.....	Rome.
McMath, Morrison H.....	Rochester.
McNair, John M.....	Dansville.
Mead, Charles W.....	Albany.
Merrill, Payson.....	111 Broadway, New York.
Metcalf, J. H.....	Canandaigua.
Millar, David.....	Lockport.
Miller, Abram J.....	Brewster.
Miller, E. D.....	Newark.
Miller, Peyton F.....	Albany.
Mills, Isaac N.....	Mount Vernon.
Mills, William C.....	Gloversville.
Mitchell, Edward.....	44 Wall street, New York.
Mitchell, John Murray.....	35 Wall street, New York.
Mitchell, William.....	44-46 Wall street, New York.
Moffat, R. Burnham.....	63 Wall street, New York.
Monfort, Henry A.....	Jamaica.
Moot, Adelbert.....	Buffalo.
Morris, Coles.....	120 Broadway, New York.
Morris, William T.....	Penn Yan.
Morse, Horace E.....	Clayton.
Morse, Waldo G.....	10 Wall street, New York.
Moses, Raphael J., Jr.....	120 Broadway, New York.
Moshier, Geo. A.....	Troy.

- Movius, Edward H. Buffalo.
 Muhlfelder, David. Albany.
 Murray, David. 220 Broadway, New York.
 Mynderse, Wilhelmus. 54 Wall street, New York.
- Nanny, Harrison W. Goshen.
 Nash, Stephen P. 67 Wall street, New York.
 Nathan, Edgar J. 120 Broadway, New York.
 Near, Irvin W. Hornellsville.
 Nellis, Andrew J. Johnstown.
 Nellis, George W. Auburn.
 Newton, Howard D. Norwich.
 Nichols, Effingham H. 47 Cedar street, New York.
 Nichols, George L. 49 Wall street, New York.
 Niles, W. W., Jr. 11 Wall street, New York.
 Noble, William S. Ithaca.
 North, Safford E. Batavia.
 Norton, Nathaniel W. Buffalo.
 Norton, Porter Buffalo.
 Norwood, Carlisle, Jr. 140 Nassau street, New York.
 Nottingham, Edwin. Syracuse.
 Noyes, Fred. W. Dansville.
 Nussbaum, Myer. Albany.
- O'Connell, Daniel. 234 Broadway, New York.
 Odell, Hamilton 120 Broadway.
 O'Gorman, Richard, Jr. 51 Chamber street, New York.
 O'Grady, James M. E. Rochester.
 Olcott, Emmet R. 35 Broadway, New York.
 Olcott, J. Van Vechten. 4 Warren street, New York.
 Olmstead, Dwight H. 26 W. 72d street, New York.
 Olney, James B. Catskill.
 Onderdonk, Andrew J. 60 Wall street, New York.
 O'Neill, William F. Middletown.
 Opdyke, William S. 20 Nassau street, New York.
 Oppenheim, Myron H. 346 Broadway, New York.
 Oppenheim, William George. World Building, New York.
 Osborn, Frank H. Catskill.
 Otis, A. Walker. 111 Broadway, New York.
 Otterbourg, Eugene 280 Broadway, New York.
 Oudin, Lucien. 45 Broadway, New York.

Packer, A. B	Norwich.
Paddock, Frederick G.	Malone.
Page, De Merville.	Hornellsville.
Parke, C. M.	Gloversville.
Parker, Leroy	Buffalo.
Parker, Amasa J. Jr.	Albany.
Parmenter, Frank J.	Troy.
Parmenter, R. A.	Troy.
Parsons, Geogre. W	New York.
Parsons, John E.	111. Broadway, New York.
Parsons, John H.	253 Broadway, New York.
Patten, Henry S.	Utica.
Patterson, Charles E.	Troy.
Patterson, Jacob M.	152 Stanton street, New York.
Patton, James G.	203 Ninth street. Troy.
Payne, Sereno S.	Auburn
Peabody, Charles A.	2 Wall street, New York.
Pearsall, Thomas E.	183 Montague st., Brooklyn.
Peck, Fletcher C.	Nunda.
Peck, John H.	Troy.
Peck, Myron H.	Buffalo.
Peckham, William G.	72 Trinity Bldg., New York.
Perkins, Edwin J.	Amsterdam.
Petty, Nathan D.	Riverhead.
Petty, Robert D.	253 Broadway, New York.
Phelps, William Walter.	2 Wall street, New York.
Philbin, Stephen.	49 Chambers st, New York.
Philips, Albert L.	99 Nassau street, New York.
Phillips, James P.	126 Court street, Brooklyn.
Pierce, D. A.	Syracuse.
Pinney, G. M., Jr	44 Pine street, New York.
Piper, G. S.	Fulton.
Pirsson, John W.	149 Broadway, New York.
Platt, Frank H.	35 Wall street, New York.
Platt, James N.	52 William street. New York.
Platzek, M. W.	291 Broadway, New York.
Porter, Anthony B.	154 Nassau street, New York.
Potter, D. S.	Glens Falls.
Potter, Owen L.	Albany.
Pound, John E.	Lockport.
Pratt, Aaron B.	Albany.

Prentice, William P.....	155 Broadway, New York.
Prescott, M. C.....	Herkimer.
Preston, Charles M.....	58 Pine street, New York.
Proctor, L. B.....	Albany.
Pruyn, John V. L.....	Albany.
Purrington, William A.....	59 Wall street, New York.
Putnam, Earl B.....	228 South 7th st., Phila., Pa.
Putnam, Tarrant.....	41 Park Row, New York.
Putney, William B....	115 Broadway, New York.
Raines, Thomas.....	Rochester.
Randall, Henry E....	Norwich.
Rankine, Wm. B.....	Mills Building, New York.
Ransom, Frank A.....	New York.
Rapallo, Edward S.....	32 Nassau street, New York.
Ray, George W....	Norwich.
Raymond, Manley A.....	156 Broadway, New York.
Redfield, Henry S.....	Elmira.
Redington, Lyman W.....	71 Broadway, New York.
Reilly, Owen M.....	Phoenix.
Remington, H. F.....	Rochester.
Remington, James H.....	277 Broadway, New York.
Remsen, Daniel S.....	69 Wall street, New York.
Renwick, Edward S.....	19 Park place, New York.
Rich, Adelbert P....	Auburn.
Richardson, Thomas.....	Ilion.
Rider, G. M.....	Ellicottsville.
Riker, Samuel.....	Potter Building, New York.
Robertson, William H.....	Katonah.
Robinson, David C.....	Elmira.
Robinson, Edmund R.....	160 Broadway, New York.
Robinson, Robert E.....	52 Wall street, New York.
Robson, James A.....	Canandaigua.
Roche, William J.....	Troy.
Rockwell, John S....	Buffalo.
Rodenbeck, A. J.....	Rochester.
Roe, Alfred.....	156 Broadway, New York.
Roe, Charles.....	Rochester.
Roesch, George F.....	19 Avenue A, New York.
Rogers, Sherman S.....	Buffalo.
Rollins, Daniel G.....	32 Nassau street.

Ronan, E. D	Albany.
Roome, W. Harris.....	40-42 Wall street, New York.
Roosevelt, C. H.....	48 Exchange place, N. Y.
Root, Elihu	32 Nassau street, New York.
Ross, James A.....	87 Nassau street, New York.
Rounds, Arthur C.....	96 Broadway, New York.
Rowe, Charles H.....	Dansville.
Rowlette, Thomas M.....	280 Broadway, New York.
Rudd, William P....	Albany.
Russell, Horace	280 Broadway, New York.
Russell, S. W.....	Salem.
Sackett, L. B.....	Poughkeepsie.
Sand, John H.....	Albany.
Sanderson, John.....	Catskill.
Sandford, Elliot	32 Nassau street, New York.
Satterlee, Eugene H.....	Rochester
Saunders, Thorndike	71 Broadway, New York.
Sawyer, A. H.....	Watertown.
Saxton, Charles T.....	Clyde.
Scherer, Robert G.....	Albany.
Searing, John W.	Kingston.
Sears, John G.....	Owego.
Sebring, James O	Hammondsport.
Seligman, George W.....	15 Broad street, New York.
Semple, Lorenzo.	27 Pine street, New York.
Severance, Wales F ..	206 Broadway, New York.
Seward William H., Jr	Auburn.
Sewell, A. H	Delhi.
Sewell, Robert.....	34 Nassau street, New York.
Sexton, Lawrence E.	34 Pine street, New York.
Seymour, Daniel.	29 Wall street, New York.
Seymour, Henry H.....	Buffalo.
Shearman, Thomas G	44 Wall street, New York.
Sheldon, Edward W.....	45 Wall street, New York.
Sherman, Daniel.....	Forestville.
Signor, Isaac S	Albion.
Silvester, Francis	Kinderhook.
Simmons, E. W.....	Millerton.
Sitterly, J. S	Fonda.
Skidmore, Lemuel	44 Pine street, New York.

Slosson, Harrison T	Mount Kisco.
Smith, Alfred B	Poughkeepsie.
Smith, Clarence W.....	Johnstown.
Smith, David Cady... ..	Schenectady.
Smith, Edward N.....	Watertown.
Smith, Everett.....	Schenectady.
Smith, Francis A.....	Elizabethtown.
Smith, Frank E.....	21 Cortlandt street, New York.
Smith, Frank S.....	54 Wall street, New York.
Smith, G. Wells	Morrisville.
Smith, Hannibal.....	Watertown.
Smith, John E... ..	Morrisville, Madison county.
Smith, John Sabine... ..	58 William street, New York.
Smith, Lawrence C... ..	539 Putnam street, Brooklyn.
Smith, Nathaniel S.....	120 Broadway, New York.
Smith, Nelson.....	97 Nassau street, New York.
Smyth, Frederick	Potter Building, New York.
Soop, Henry C	Rondout.
Spear, Asa A	627 La Fayette ave., Brooklyn.
Speer, William McM	Albany.
Spencer, Edgar A	Gloversville.
Spencer, James C.....	280 Broadway, New York.
Spigelberg, F.....	44 Broad street, New York.
Sprague, Henry Ware	Buffalo.
Spratt, Thomas.....	Ogdensburg.
Springs, Richard A.....	280 Broadway, New York.
Squire, E. H. P.....	80 Broadway, New York.
Stanchfield, John B	Elmira.
Stearns, James S.....	58 William street, New York.
Stedman, George L.....	Albany.
Stedman, George W.....	Albany.
Steele, A. B.....	Herkimer.
Stephen, Frederick, Jr.....	Rondout.
Sterne. Simon	56 Beaver street, New York.
Stetson, Francis L.....	45 William street, New York.
Stevens. James H	Hornellsville.
Stewart, Lispernard.....	54 William street, New York.
Stickney, Albert.....	31 Nassau street, New York.
Stiger. William E.	150 Broadway, New York.
Stikeman, James	18 Broadway, New York.
Stillman, G. S. P.....	120 Broadway, New York.

Stoddard, Thomas A	59 Liberty street, New York.
Storms, William T. B	Nyack.
Stranahan, N. N.	Fulton.
Strauss, Charles	237 Broadway, New York.
Strong, Henry A.	Cohoes.
Strong, Thomas S.	80 Wall street, New York.
Sullivan, T. C.	New York.
Sullivan, W. H.	Norwich.
Sulzer, William	45 Broadway, New York.
Sutro, Theodore	280 Broadway, New York.
Swift, Frederic J.	3 Broad street, New York.
Sylvester, Francis	Kinderhook.
Taft, Enos N.	74 Wall street, New York.
Taft, Theodore M.	74 Wall street, New York.
Taggart, Rush	195 Broadway, New York.
Tallmadge, Frederick S.	103 Cedar street, New York.
Taylor, John A.	111 Broadway, New York.
Thayer, S. H.	Yonkers.
Thompson, David A.	Albany.
Thompson, Girard F.	52 Wall street, New York.
Tomlinson, Charles H.	Albany.
Tompkins, A. S.	Nyack.
Toucey, Donald B.	261 Broadway, New York.
Townsend, John D.	309 Broadway, New York.
Tracy, J. Evarts	52 Wall street, New York.
Tracy, William G.	Syracuse.
Tremain, Henry E.	146 Broadway, New York.
Trull, William C.	206 Broadway, New York.
Tucker, J. Lee	Oneonta.
Turner, Herbert B.	22 William street, New York.
Turner, Robert T.	Elmira.
Tyler, E. W.	111 Broadway, New York.
Tyler, Mason W.	146 Broadway, New York.
Van Allen, Lucas L.	318 Broadway, New York.
Van Vechten, A. V. W.	55 Pine street, New York.
Vander Veer, Frank F.	120 Broadway, New York.
Van Dusen, A. A.	Mayville.
Van Etten, John E.	Kingston.
Van Hoesen, George M.	145 Broadway, New York.

Van Rensselaer, Cortland S....	160 Broadway, New York.
Van Santvoord, Abram.....	111 Broadway, New York.
Van Santvoord, Seymour.....	Troy.
Van Schaick, John.....	Cobleskill.
Van Sickie, John.....	Auburn.
Van Voast, James A.....	Schenectady.
Van Voast, Frederick B.....	40 Wall street, New York.
Verbeck, James W.....	Ballston Spa.
Veeder, William D.....	375 Fulton street, Brooklyn.
Vernon, P. Harwood.....	111 Broadway, New York.
Verplanck, William G.....	54 William street, New York.
Viele, Sheldon T.	298 Main street, Buffalo.
Vien, H. A.	317 Broadway, New York.
Wadhams, Frederick E.....	Albany.
Wales, A. D.....	Binghamton.
Walling, Frank.	21 Cortland street, New York.
Walsh, John W.....	Albany.
Ward, Sylvester L. H.....	65 Wall street, New York.
Ward, Walter E.....	Albany.
Warner, John DeWitt.	72 Trinity Bldg., New York.
Warren, Ira D.....	170 Broadway, New York.
Waterbury, Nelson J., Jr.	55 William street, New York.
Waterman, R. E.....	Ogdensburg.
Watts, C. H.....	Watertown.
Watson, Benjamin F..	314 Lexington ave, New York.
Webster, George P.....	132 Nassau street, New York.
Weed, John W.....	62 William street, New York.
Welch, David	147 Nassau street, New York.
Wendell, John D.....	Fort Plain.
Werner, William E.....	Rochester.
Westbrook, F. A.....	Kingston.
Westbrook, Zerah S.....	Amsterdam.
Westfall, D. M.....	Cambridge.
Wetmore, Edmund.....	34 Pine street, New York.
Weller, Augustus N.....	97 Nassau street, New York.
Whitaker, Edward G.....	29 Broadway, New York.
White, Edward P.	Amsterdam.
Wilcox, Ansley.....	Buffalo.
Wilkey, Pierre W.	31 Pine street, New York.
Wilke, John L.....	2 Wall street, New York.

Wilkinson, Robert F. Poughkeepsie.
 Wilkinson, Thomas F. Albany.
 Williams, Mornay 207 Broadway New York.
 Williams, David O. Mount Vernon.
 Wilmont, De Bordon. 55 Broadway, New York.
 Winslow, John Garfield Building, Brooklyn.
 Wilson, Philip L. 48 Wall street, New York.
 Wise, Edmond E. 44 Broad street, New York.
 Wise, Morris S. 50-52 Exchange place, N. Y.
 Woods, John A. 120 Broadway, New York.
 Wood, William H. Poughkeepsie.
 Woodruff, A. Edward. 120 Broadway, New York.
 Woodward, Henry E. 52 William street, New York.
 Wright, Frank D. Auburn.

 Yeoman, George F. Rochester.

 Zabriskie, George 21 Broad street, New York.

ALPHABETICAL LIST OF MEMBERS OF THE NEW YORK STATE BAR ASSOCIATION.

(ARRANGED BY JUDICIAL DISTRICTS.)

FIRST DISTRICT.

CITY AND COUNTY OF NEW YORK.

Abbott, Austin...	71 Broadway, New York.
Adams, Charles T.....	32 Nassau street, New York.
Adams, George B.....	69 Wall street, New York.
Aitken, William B....	69 Wall street, New York.
Aitkin, John.....	137 Broadway, New York.
Alden, Carlos C.....	32 Nassau street, New York.
Alexander, Henry M.....	120 Broadway, New York.
Alexander, Robert C....	7 Nassau street, New York.
Allison, Thomas.....	59 Liberty street, New York.
Anderson, Henry H.....	35 Wall street, New York.
Aplington, Henry...	6 Harrison street, New York.
Armstrong, James.....	192 Broadway, New York.
Arnold, John H. V.....	206 Broadway, New York.
Arnoux, William Henry.....	18 Wall street, New York.
Ashley, George B.....	145 Broadway, New York.
Atwater, Henry G.....	115 Broadway, New York.
Backus, Henry C.....	165 Broadway, New York.
Bailey, Charles H.....	122 Bowery, New York.
Baldwin, Edwin.....	55 Liberty street, New York.
Ballantine, William A.....	186 W. End ave., New York.
Bangs, Francis S.....	45 Wall street, New York.
Barnard, Horace.....	96 Broadway, New York.
Bartlett, Franklin.....	168 Nassau street, New York.
Bavlies, Gustavus.....	290 Broadway, New York.
Beall, J. A.	149 Broadway, New York.
Beekman, Gerard.....	47 Cedar street, New York.
Beekman, James W.....	149 Broadway, New York.
Bell, Edward W.....	18 Cortland street, New York.
Benedict, Robert D....	68 Wall street, New York.
Benn, E. H.....	154 Nassau street, New York.

Benton, Samuel H.....	58 William street, New York.
Berry, Arthur.....	200 Broadway, New York.
Berry, Carroll.....	200 Broadway, New York.
Bischoff, Henry, Jr.....	Tryon row, New York.
Bishop, James L.....	115 Broadway, New York.
Blackmar Abel E.....	55 Liberty street, New York.
Blanchard, James A.....	154 Nassau street, New York.
Blandy, Charles.....	15 Wall street, New York.
Blatchford, Samuel A.....	29 Nassau street, New York.
Blumensteil, Alex.....	309 Broadway. New York.
Bogert, Henry L.....	99 Nassau street, New York.
Boston, Charles A.....	66 Broadway, New York.
Bowen, James R.....	28 World Building, New York.
Bowers, John M.....	54 William street, New York.
Boyd, John G.....	41 Park Row, New York.
Bradley, Leonard A.....	62 Wall street, New York.
Brainerd, Cephas.....	47 Cedar street, New York.
Brainerd, Cephas, Jr.....	47 Cedar street, New York.
Briesen, Arthur.....	229 Broadway, New York.
Bromeisler, L. E.....	111 Broadway, New York.
Bronk, William Rea.....	2 Wall street, New York.
Brown, D. Walter.....	111 Broadway, New York.
Brown, Edward H.....	253 Broadway, New York.
Bruno, Richard M.....	146 Broadway, New York.
Burnham, F. A.....	309 Broadway. New York.
Burr, William P.....	206 Broadway, New York.
Burrill, John E.....	68 W. Chambers street, N. Y.
Bush, J. Adriance.....	10 Wall street, New York.
Bushe, Eugene L.....	150 Broadway, New York.
Butcher, David F.....	18 Wall street, New York.
Butler, William Allen.....	54 Wall street, New York.
Cahill, John H.....	18 Cortland street, New York.
Calvin, Deland C.....	7 Nassau street, New York.
Campbell, A. V.....	54 William street, New York.
Campbell, Robert B.....	71 Wall street, New York.
Candler, Flamen B.....	48 Wall street, New York.
Cannon, Sylvanus T.....	115 Broadway, New York.
Card, Albert M.....	93-95 Nassau st.. New York.
Cardoza, Michael H.....	120 Broadway, New York.
Carpenter, Benjamin F.....	93 Nassau street, New York.

Carpenter, Philip.	38 Park Row, New York.
Carpenter, James E.	62 Wall street, New York.
Carter, James C.	54 Wall street, New York.
Carter, Walter S.	96 Broadway, New York.
Chambers, William P.	59 Liberty street, New York.
Clapp, John H.	50 Broadway, New York.
Clark, Jefferson.	32 Nassau street. New York.
Clarke, Samuel B.	32 Nassau street, New York.
Clement, George A.	Drexel Building. New York.
Clinch, Edward S.	115 Broadway, New York.
Cohen, William N.	22 William street, New York.
Coleman, Charles W.	203 Broadway, New York.
Coleman, George S.	80 Broadway, New York.
Collin, Charles A.	32 Nassau street, New York.
Compton, A. T.	237 Broadway, New York.
Comstock, George C.	59 Liberty street, New York.
Conger, Clarence R.	37 Liberty street, New York.
Coudert, Charles.	68-70 William st., New York.
Coudert, Frederick R.	68 William street, New York.
Cowen, Esek.	253 Broadway, New York.
Cowles, Charles P.	3 Broad street, New York.
Crane, Alexander B.	41 Wall street, New York.
Cravath, Paul D.	120 Broadway, New York.
Crawford, Gilbert H.	229 Broadway, New York.
Crook, Abel.	93 Nassau street, New York.
Crosby, Darius G.	147 Nassau street, New York.
Crosby, Ernest H.	120 Broadway, New York.
Cuming, James R.	2 Wall street, New York.
Curtis, William E.	45 William street, New York.
Daly, Charles P.	11 William street, New York.
Daniels, Charles H.	95 Nassau street, New York.
Davies, Julien T.	32 Nassau street, New York.
Davies, William G.	32 Nassau street, New York.
Davison, Charles A.	69 Wall street, New York.
Davison, Charles Stewart.	56 Wall street, New York.
Dayton, Charles W.	3 Broad street, New York.
Dean, David J.	2 Tryon row, New York.
Delafield, Albert.	45 Cedar street, New York.
De La Mare, James C.	110 E. 125 street, N. Y.
Dennis, Leonidas.	3 Broad street, New York.

Depew, Chauncey M.....	Grand Central Depot.
Deshon, Charles A.....	237 Broadway, New York.
Devlin, Francis C.....	111 Broadway, New York.
De Witt, George G., Jr.....	88 Nassau street, New York.
Dexter, Stanley W.....	71 Wall street, New York.
Dickerson, Edward N.....	15 Wall street, New York.
Dillon, John F.....	195 Broadway, New York.
Dittenhoefer, Abram J.....	96 Broadway, New York.
Dittenhoefer, Irving M.....	96 Broadway, New York.
Dixon, William P.....	80 Broadway, New York.
Dodd, Samuel C. T.....	26 Broadway, New York.
Donahue, Charles.....	203 Broadway, New York.
Donahue, Frank Lawrence.....	203 Broadway, New York.
Dos Passos, John R.....	73 Broadway, New York.
Doty, Spencer C.....	99 Nassau street, New York.
Dougherty, J. Hampden...	7 Nassau street, New York.
Doyle, Louis F.....	41 Park Row, New York.
Drysdale, John M.....	111 Broadway, New York.
Dulon, Rudolph.....	115 Broadway, New York.
Dunne, James.....	Stewart Bldg., New York.
Dupre, Ovide.....	290 Broadway, New York.
Durand, John S.....	146 Broadway, New York.
Earle, Charles M.....	106 Fulton street, New York.
Easton, Robert T. B.....	120 Broadway, New York.
Edgar, Charles H.....	5 Beekman street, New York.
Edmonds, Walter D.....	5 Beekman street, New York.
Edwards, Walter.....	120 Broadway, New York.
Ellis, George W.....	155 Broadway, New York.
Elkins, Stephen B.....	1 Broadway, New York.
Elkus, Abram I.....	56 Pine street, New York.
Englehart, Isaac A.....	291 Broadway, New York.
Eustis, John E.....	80 Broadway, New York.
Evans, Thomas G.....	49 Nassau street, New York.
Ewing, Thomas.....	41 Wall street, New York.
Fancher, James R.....	111 Broadway, New York.
Feitner, Thomas L.....	56 Wall street, New York.
Fine, Christopher.....	114 Nassau street, New York.
Fish, Hamilton.....	57 Broadway, New York.
Fletcher, George H.....	170 Broadway, New York.
Ford, William H.....	51 Liberty street, New York.

Foster, Roger	35	Wall street, New York.
Fowler, Edward S	87	Nassau street, New York.
Frankenheimer, John	15	Wall street, New York.
Franklin, Benjamin	38	Park Row, New York.
Franklin Ruford	45	Broadway, New York.
Framer Eugene	56	Pine street, New York.
Fuller, Paul	70	William street, New York.
Gerry, Elbridge T	261	Broadway, New York.
Gibson, William J	32	Nassau street, New York.
Gifford, James M	58	William street, New York.
Gilbert, Jasper W	31	Nassau street, New York.
Gilbert, Frederick L	111	Broadway, New York.
Gleason, John B	155	Broadway, New York.
Goelet, Robert	88	Nassau street, New York.
Goodhart, Morris	62	William street, New York.
Goodwin, Almon	2	Wall street, New York.
Govin, Raphael R	45	Cedar street, New York.
Goudey, S. S	275	Broadway, New York.
Gray, Joseph H	71	Wall street, New York.
Green, Andrew H	214	Broadway, New York.
Green, John B	280	Broadway, New York.
Greenbaum, Samuel	170	Broadway, New York.
Greenfield, George J	35	Broadway, New York.
Gregerick, Leonard A		County Court house, N. Y.
Griffin, Charles H		Cot. Exch. Bldg., New York.
Gross, Michael C	3	Chambers street, New York.
Gumbleton, Henry A	271	Broadway, New York.
Guthrie, William D	29	Nassau street, New York.
Hall, Ernest	64	William street, New York.
Halsay, George A	44	Broadway, New York.
Hamburger, Samuel B	291	Broadway, New York.
Hamilton, William H	160	Broadway, New York.
Hatch, Edward S	55	Liberty street, New York.
Hawkins, Eugene D	111	Broadway, New York.
Hawes, Gilbert R	120	Broadway, New York.
Hayes, Daniel P	170	Broadway, New York.
Hedges, Job E	2	Wall street, New York.
Herrman, Moses	229	Broadway, New York.
Hildreth, J. Homer	280	Broadway, New York.
Hill, Edward B	45	Wall street, New York.

Hill, George.....	206 Broadway, New York.
Hill, James K.....	45 William street, New York.
Hill, John L.....	59 Liberty street, New York.
Hinrichs, Frederick W	115 Broadway, New York.
Hinsdale, E. B.....	192 Broadway, New York.
Hoadley, George.....	22 William street, New York.
Hobbs, Edward H....	58 Pine street, New York.
Holden, Daniel J.....	68-70 William st., New York.
Hornblower, William B.....	45 William street, New York
Hotchkiss, Henry D.....	32 Nassau street, New York.
Hottenroth, Adolph C	291 Broadway, New York.
Hubbard, Henry.....	195 Broadway, New York.
Hubbard, Thomas H.....	111 Broadway, New York.
Hudson, James A.....	Aldrich Court, New York.
Hughes, Charles E.....	96 Broadway, New York.
Hunt, James M.....	31 Pine street, New York.
Hyde, E. Francis.....	54 Wall street, New York.
Hyland, J. A.....	45 Broadway, New York.
Ingersoll, Robert G... ..	40 Wall street, New York.
Irwin, William.....	229 Broadway, New York.
Isaacs, Isaac S... ..	27 Pine street, New York.
Isaacs, Myer S... ..	27 Pine street, New York.
Jacobs, Abraham L.....	140 Nassau street, New York.
James, Edward C	31 Nassau street, New York.
Jay, William.	48 Wall street, New York.
Jennings, Frederick B.	15 Broad street, New York.
Jessup, H. W....	66 Broadway, New York.
Johnson, Charles H.....	7 Beekman street, New York.
Jones, Dwight A.	55 Liberty street, New York.
Jones, Paul.....	7 Beekman street, New York.
Keene, Roswell W....	280 Broadway, New York.
Kellogg, Frederick R.....	27 Pine street, New York.
Kellogg, L. Laffin.....	120 Broadway, New York.
Kelly, Richard B.....	237 Broadway, New York.
Kent, Edwin C.....	59 Liberty street, New York.
Kent, William.....	66 Maiden lane, New York.
Keogh, Martin J.....	Temple Court, New York.
Kernan, John D.	37 Liberty street, New York.
Kernochan, J. F....	45 Pine street, New York.

Ketchum, Alexander P. 59 Cotton Exch., New York.
 Kidder, Camillus G. 34 Nassau street, New York.
 Kiddle, Alfred W. 38 Park Row, New York.
 Kissam, Brewster 170 Broadway, New York.
 Kling, Abram 96 Broadway, New York.
 Knox, Charles H. 54 William street, New York.
 Knox, John M. 80 William street, New York.
 Kohbe, George C. 44 Wall street, New York.
 Kursheedt, Manuel A. 35 Warren street, New York.

Laimbeer, Francis E. 206 Broadway, New York.
 Lardner, William J. 115 Broadway, New York.
 Larocque, Joseph 35 William street, New York.
 Lauterbach, Edward 22 William street, New York.
 Lawton, Francis. 170 Broadway, New York.
 Leavitt, Edwin R. 132 Nassau street, New York.
 Leavitt, John B. 111 Broadway, New York.
 Leeds, Theodore E. 18 Wall street, New York.
 Leventritt, David. 280 Broadway, New York.
 Levy, Jefferson M. 32 Nassau street, New York.
 Lindley, John. 1 Broadway, New York.
 Lindsay, John D. 214 Broadway, New York.
 Little, R. F. 62 Wall street, New York.
 Lockwood, Luke A. 115 Broadway, New York.
 Logan, Walter S. 58 William street, New York.
 Lozier, Theodore F. 80 Broadway, New York.
 Ludden, J. E. 132 Nassau street, New York.
 Lydecker, Charles E. 120 Broadway, New York.

Mackellar, George M. 19 Liberty street, New York.
 Malcolm, James F. 49 Chambers street, New York.
 Mann, Frederick H. 54 Wall street, New York.
 Marrin, William J. 52 Wall street, New York.
 Marsh, Valentine. 132 Nassau street, New York.
 Marshall, Jonathan. 247 Broadway, New York.
 Marshall, Louis. 46 Wall street, New York.
 Martin, Bradley. 22 W. 20th street, New York.
 Martin, Newell. 7 Nassau street, New York.
 Masten, Arthur H. 49 Wall street, New York.
 Mather, Frank J. 115 Broadway, New York.
 Maynard, Reuben L. 32 Nassau street, New York.

McAdam, Quentin.....	56 Broadway, New York.
McCook, John J.	120 Broadway, New York.
McCurdy, Delos	2 Wall street, New York.
McCutcheon, S. St. J.	170 Broadway, New York.
McElhinney, James W	132 Nassau street, New York.
McMahon, Fulton	111 Broadway, New York.
Merrill, Payson.....	111 Broadway, New York.
Mitchell, Edward.....	44 Wall street, New York.
Mitchell, John Murray.....	35 Wall street, New York.
Mitchell, William	44-46 Wall street, New York.
Moffat, R. Burnham..	60-62 Cot. Exch., New York.
Morris, Coles	120 Broadway, New York.
Morse, Waldo G.....	10 Wall street, New York.
Moses, Raphael J., Jr.....	120 Broadway, New York.
Murray, David.....	220 Broadway, New York.
Mynderse, Wilhelmus.....	54 Wall street, New York.
Nash, Stephen P.....	67 Wall street, New York.
Nathan, Edgar J.....	120 Broadway, New York.
Nichols, Effingham H.....	47 Cedar street, New York.
Nichols, George L.....	49 Wall street, New York.
Niles, W. W., Jr.	11 Wall street, New York.
Norwood, Carlisle, Jr.....	140 Nassau street, New York.
O'Connell, Daniel.....	234 Broadway, New York.
O'Dell, Hamilton.....	120 Broadway, New York.
O'Gorman, Richard, Jr.....	51 Chambers street, New York.
Olcott, Emmet R.....	35 Broadway, New York.
Olcott, J. Van Vechten....	4 Warren street, New York.
Olmstead, Dwight H..	26 W. 72d street, New York.
Onderdonk, Andrew J.....	60 Wall street, New York.
Opdyke, William S.....	20 Nassau street, New York.
Oppenheim, Myron H ..	280 Broadway, New York.
Oppenheim, William George...	World Building, New York.
Otis, A. Walker.....	111 Broadway, New York.
Otterbourg, Eugene....	280 Broadway, New York.
Oudin, Lucien....	45 Broadway, New York.
Parsons, George W.....	New York.
Parsons, John E	111 Broadway, New York.
Parsons, John H.	253 Broadway, New York.
Patterson, Jacob M.....	152 Stanton street, New York.

Peabody, Charles A. 2 Wall street, New York.
 Peckham, William G. 72 Trinity Bldg., New York.
 Perkins, Edwin J. 38 Park Row, New York.
 Petty, Robert D. 253 Broadway, New York.
 Phelps, William Walter. 12 Wall street, New York.
 Philbin, Stephen. 49 Chambers street, New York.
 Philips, Albert L. 99 Nassau street, New York.
 Pinney, G. M., Jr. 44 Pine street, New York.
 Pirsson, John W. 149 Broadway, New York.
 Platt, Frank H. 35 Wall street, New York.
 Platt, James N. 52 William street, New York.
 Platzek, M. W. 320 Broadway, New York.
 Porter, Anthony B. 154 Nassau street, New York.
 Prentice, William P. 155 Broadway, New York.
 Preston, Charles M. 58 Pine street, New York.
 Purrington, William A. 59 Wall street, New York.
 Putnam, Tarrant. 41 Park Row, New York.
 Putney, William B. 115 Broadway, New York.

Rankine, William B. Mills Building, New York.
 Ransom, Frank A. New York.
 Rapallo, Edward S. 32 Nassau street, New York.
 Raymond, Manley A. 156 Broadway, New York.
 Redington, Lyman W. 71 Broadway, New York.
 Remington, James H. 277 Broadway, New York.
 Remsen, Daniel S. 69 Wall street, New York.
 Renwick, Edward S. 19 Park Place, New York.
 Riker, Samuel Potter Building, New York.
 Robinson, Edmund R. 160 Broadway, New York.
 Robinson, Robert E. 52 Wall street, New York.
 Roe, Alfred. 156 Broadway, New York.
 Roesh, George F. 19 Avenue A, New York.
 Rollins, Daniel G. 32 Nassau street, New York.
 Roome, W. Harris. 40-42 Wall street, New York.
 Root, Elihu. 32 Nassau street, New York.
 Roosevelt, C. H. 48 Exchange Pl., New York.
 Ross, James A. 87 Nassau street, New York.
 Rounds, Arthur C. 96 Broadway, New York.
 Rowlette, Thomas M. 280 Broadway, New York.
 Russell, Horace. 280 Broadway, New York.

Sanford, Elliott	32	Nassau street, New York.
Saunders, Thorndike.....	71	Broadway, New York.
Seligman, George W.....	15	Broad street, New York.
Semple, Lorenzo.....	27	Pine street, New York.
Severance, Wales F	206	Broadway, New York.
Sewell, Robert.....	34	Nassau street, New York.
Sexton, Lawrence E	34	Pine street, New York.
Seymour, Daniel	29	Wall street, New York.
Shearman, Thomas G.....	44	Wall street, New York.
Sheldon, Edward W.....	45	Wall street, New York.
Skidmore, Lemuel.....	44	Pine street, New York.
Smith, Frank E.....	21	Cortlandt street, New York.
Smith, Frank S.	54	Wall street, New York.
Smith, John Sabine.....	58	William street, New York.
Smith, Nathaniel S	120	Broadway, New York.
Smith, Nelson.....	97	Nassau street, New York.
Smyth, Frederick.....		Potter Building, New York.
Spencer, James C	280	Broadway, New York.
Spigelberg, F	44	Broad street, New York.
Springs, Richard A.....	280	Broadway, New York.
Squire, E. H. P.....	80	Broadway, New York.
Stearns, James S.....	45	William street, New York.
Sterne, Simon.....	56	Beaver street, New York.
Stetson, Francis L.....	45	William street, New York.
Stewart, Lisenard....	54	William street, New York.
Stickney, Albert..	31	Nassau street, New York.
Stiger, William E.....	150	Broadway, New York.
Stikeman, James	18	Broadway, New York.
Stillman, G. S. P.....	120	Broadway, New York.
Stoddard, Thomas A.....	59	Liberty street, New York.
Strauss, Charles.....	236	Broadway, New York.
Strong, Thomas S	80	Wall street, New York.
Sullivan, T. C.....		New York.
Sulzer, William.....	45	Broadway, New York.
Sutro, Theodore	115	Broadway, New York.
Swift, Frederic J.....	3	Broad street, New York.
Taft, Enos N.....	74	Wall street, New York.
Taft, Theodore M.....	74	Wall street, New York.
Taggart, Rush.....	195	Broadway, New York.
Tallmadge, Frederick S.....	103	Cedar street, New York.
Taylor, John A.....	111	Broadway, New York.

Thompson, Giraud F. 52 Wall street, New York.
 Toucey, Donald B. 261 Broadway, New York.
 Townsend, John D. 309 Broadway, New York.
 Tracey, J. Evarts. 52 Wall street, New York.
 Tremain, Henry E. 146 Broadway, New York.
 Trull, William C. 206 Broadway, New York.
 Turner, Herbert B. 22 William street, New York.
 Tyler, E. W. 111 Broadway, New York.
 Tyler, Mason W. 146 Broadway, New York.

Van Allen, Lucas L. 318 Broadway, New York.
 Vanderveer, Frank F. 120 Broadway. New York.
 Van Hoesen, George M. 33 Nassau street. New York.
 Van Rensselaer, Cortlandt S. . . 160 Broadway, New York.
 Van Santvoord, Abram. 111 Broadway, New York.
 Van Vechten, A. V. W. 55 Pine street, New York.
 Van Vorst, Frederick B. 18 Wall street, New York.
 Vernon, P. Harwood. 111 Broadway, New York.
 Verplanck, William G. 54 William street, New York.
 Vien, H. A. 317 Broadway, New York.

Walling, Frank. 21 Cortlandt st., New York.
 Ward, Sylvester L. H. 65 Wall street, New York.
 Warner, John DeWit. 52 William street, New York.
 Warren, Ira D. 170 Broadway, New York.
 Waterbury, Nelson J., Jr. 55 William street, New York.
 Watson, Benjamin F. 314 Lexington av., New York.
 Webster, George P. 38 Park Row, New York.
 Weed, John W. 62 William street, New York.
 Welch, David. 147 Nassau street, New York.
 Weller, Augustus N. 97 Nassau street, New York.
 Wetmore, Edmund. 34 Pine street, New York.
 Whitaker, Edward G. 29 Broadway, New York.
 Wildey, Pierre W. 31 Pine street. New York.
 Wilkie, John L. 2 Wall street, New York
 Williams, Mornay. 207 Broadway, New York.
 Wilmot, De Bordon. 55 Broadway. New York.
 Wilson, Philip L. 48 Wall street, New York.
 Wise, Edmond E. 44 Broad street, New York.
 Wise, Moris S. 50-52 Exchange Pl., N. Y.
 Woodruff, A. Edward. 120 Broadway, New York

Woods, John A. 120 Broadway, New York.
 Woodward, Henry E. 52 William street, New York.
 Zabriskie, George. 21 Broad street, New York.

SECOND DISTRICT.

Dutchess, Kings, Orange, Putnam, Queens, Richmond, Rock-
 land, Suffolk and Westchester Counties.

Ackerman, Fred. E. 35 Market st., Poughkeepsie.
 Andrew, George C. Tarrytown.
 Arnold, C. W. H. Poughkeepsie.

Barnard, Frederick. Poughkeepsie.
 Barnum, Frederick S. Brewster.
 Barrett, H. R. White Plains.
 Brennan, John F. Yonkers.
 Brown, Irving. Haverstraw.
 Brown, Samuel H. Poughkeepsie.
 Butcher, William W. 26 Court street, Brooklyn.

Coggeshall, Edwin W. 166 Montague st., Brooklyn.
 Cook, J. Hervey. Fishkill-on-Hudson.
 Cossum, Charles F. Poughkeepsie.
 Coxe, Magrane. Southfield, Orange Co.
 Crummey, Safford A. Poughkeepsie.

Dickey, William D. Newburg.
 Dike, Norman S. Brooklyn.
 Dill, Charles G. Middletown.
 Dykeman, H. T. White Plains.

Eastman, George W. Roslyn.
 Esmond, Darwin W. Newburg.
 Fiero, William P. White Plains.
 Fishel, Eugene. Babylon.

Gardner, John M. Newburg.
 Garretson, Garret. Newton.
 Gillen, William W. Jamaica.

Hart, Monmouth G. White Plains.
 Hawley, David. Maplehurst, Yonkers.

Headley, Russell.....	Newburg.
Heermance, Martin.....	Poughkeepsie.
Hirschberg, M. H.....	Newburg.
Horton, Charles D.....	White Plains.
Horton, Cyrus W.....	Peekskill.
Ingraham, Richard.....	16 Court street, Brooklyn.
Jackson, Theodore F.....	Brooklyn.
Jaques, Eden S.....	Poughkeepsie.
Lambden, John F.....	New Rochelle.
Lovatt, E. T.....	Tarrytown.
Mayer, William E. C.....	189 Montague st., Brooklyn.
McCauley, William, Jr.....	Haverstraw.
Miller, Abram J.....	Brewster.
Mills, Isaac N.....	Mount Vernon.
Montfort, Henry A.....	Jamaica.
Nanny, Harrison W.....	Goshen.
O'Neill, William F.....	Middletown.
Pearsall, Thomas E.....	183 Montague st., Brooklyn.
Petty, Nathan D.....	Riverhead.
Philips, James P.....	26 Court st., Brooklyn.
Robertson, William H.....	Katonah.
Sackett, L. B.....	Poughkeepsie.
Simmons, E. W.....	Millerton.
Slosson, Harrison T.....	Mount Kisco.
Smith, Alfred B.....	Poughkeepsie.
Smith, Lawrence C.....	539 Putnam st., Brooklyn.
Spear, Asa A.....	627 Lafayette ave., Brooklyn.
Storms, William T. B.....	Nyack.
Thayer, S. H.....	Yonkers.
Tompkins, Arthur S.....	Nyack.
Veeder, William D.....	375 Fulton street Brooklyn.
Wilkinson, Robert F.....	Poughkeepsie.
Williams, David O.....	Mt. Vernon.

Winslow, John. Garfield Building, Brooklyn.
 Wood, William H. Poughkeepsie.

THIRD DISTRICT.

Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and
 Ulster Counties.

Andrews, Arthur L. Albany.
 Andrews, Robert E. Hudson.
 Arnold, Lynn G. Cooperstown.

Barnes, William. Albany.
 Baxter, L. W. Cobleskill.
 Bedell, Edwin A. Albany.
 Betts, James A. Kingston.
 Bloodgood, Clarence E. Catskill.
 Brass, Richard W. Albany.
 Brinnier, Wm. D. Kingston.
 Buchanan, Charles J. Albany.
 Bush, T. F. Monticello.

Cameron, Frederick W. Albany.
 Cantine, Peter. Saugerties.
 Carr, Lewis E. Albany.
 Carpenter, George H. Liberty, Sullivan Co.
 Chase, Emory A. Catskill.
 Chester, Alden. Albany.
 Chipp, Howard, Jr. Rondout.
 Clearwater, Alphonso T. Kingston.
 Clough, M. T. Troy.
 Collier, Casper P. Hudson.
 Collier, Frederick J. Hudson.
 Connelly, Arthur C. Kingston.
 Conway, Martin D. Albany.
 Cook, John T. Albany.
 Countryman, Edwin. Albany.
 Crawford, James F. Cohoes.
 Curley, John P. Troy.

Davenport, Nelson. Troy.
 Danaher, Franklin M. Albany.
 Daw, George W. Troy.

Douglass, Edward W.	Troy.
Dugan, Patrick C.	Albany.
Eaton, James W.	Albany.
Fagan, Thomas S.	Troy.
Farrar, Alonzo H.	Kinderhook.
Fiero, J. Newton.	Albany.
Fitts, George H.	Cohoes.
Fredenburgh, Walter S.	Kingston.
Gilbert, Francis R.	Albany.
Gleason, John H.	Albany.
Graham, James G., Jr.	Newburg.
Greene, George E.	Hoosick Falls.
Griswold, Stephen B.	Albany.
Hale, Matthew.	Albany.
Hall, C. R.	Albany.
Hall, Lewis B.	Albany.
Ham, Fred C.	Albany.
Ham, Thomas H.	Albany.
Hardenbergh, John E.	Rosendale.
Hasbrouck, Louis.	Ogdensburg.
Hatt, Samuel S.	Albany.
Heaton, Willis E.	Hoosick Falls.
Hessberg, Albert.	Albany.
Hicks, Horace L.	Albany.
Hitt, Galen R.	Albany.
Hoag, J. E.	Troy.
Holbrook, Edwin M.	Albany.
Hollister, William H., Jr.	Troy.
Holmes, John B.	Troy.
Hoysradt, Albert.	Hudson.
Hun, Marcus T.	Albany.
Huson, Calvin J.	Albany.
Jennins, W. Irving.	Catskill.
Kellogg, John M.	Ogdensburg.
Kellogg, Justin.	Troy.
Kenyon, William S.	Kingston.

Lansing, Abraham.....	Albany.
Lansing, James.	Troy.
Lawson, Joseph A.....	Albany.
Linson, John J.....	Kingston.
Ludden, William J.....	Troy.
Mallory, George H.....	Albany.
McClellan, Hugh W.....	Chatham.
McDonough, John T.....	Albany.
McLean, Eugene.....	West Troy.
Mead, Charles W.....	Albany.
Miller, Peyton F.....	Albany.
Moshier, Geo. A.....	Troy.
Muhlfelder, David	Albany.
Nussbaum, Myer.....	Albany.
Olney, James B.....	Catskill.
Osborn, Frank H	Catskill.
Parker, Amasa J., Jr.	Albany.
Parmenter, F. J.....	Troy.
Parmenter, R. A.....	Troy.
Patterson, Charles E.....	Troy.
Patton, James G.....	Troy.
Peck, John H.....	Troy.
Potter, Owen L.....	Albany.
Pratt, Aaron B	Albany.
Proctor, L. B.....	Albany.
Pruyn, John V. L.....	Albany.
Roché, W. J	Troy.
Ronan, Edward D	Albany.
Rudd, William P.	Albany.
Sand, John H.....	Albany.
Sanderson, John	Catskill.
Scherer, Robert G.....	Albany.
Searing, John W.....	Kingston.
Simmons, E. W.....	Millerton.
Soop, Henry C.....	Rondout.
Speer, William McM.....	Albany.
Stedman, George L.....	Albany.

Stedman, George W Albany.
 Stephan, Frederick, Jr Rondout.
 Strong, Henry A. Cohoes.
 Sylvester, Francis. Kinderhook.

Thompson, David A. Albany.
 Tomlinson, Charles H. Albany.
 Tucker, J. Lee. Oneonta.

Van Etten, John E. Kingston.
 Van Santvoord, Seymour. Troy.
 Van Schaick, John Cobleskill.

Wadhams, Frederick E. Albany.
 Walsh, John W. Albany.
 Ward, Walter E. Albany.
 Westbrook, F. A. Kingston.
 Westfall, D. M. Cambridge.
 Wilkinson, Thomas F. Albany.

FOURTH DISTRICT.

Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St.
 Lawrence, Saratoga, Schenectady, Warren and Washington
 Counties.

Baker, A. D. L. Gloversville.
 Banker, N. M. Gloversville.
 Borst, H. V. Amsterdam.
 Brown, Stephen. Glens Falls.
 Brown, Louis M. Glens Falls.

Davison, Charles M. Saratoga Springs.
 Dillingham, A. J. Schenectady.
 Dobie, David F. Plattsburg.

Fish, Leonard F. Fultonville.
 Fish, R. Bronk. Fultonville.
 Foley, John. Saratoga Springs.
 Foote, Wallace T., Jr. Port Henry.
 Fraser, McIntyre Johnstown.

Gibson, James. Salem.
 Gilbert, John I. Malone.

Hand, Richard L	Elizabethtown.
Ingalsbe, Grenville M	Sandy Hill.
Keck, Jeremiah	Johnstown.
Keck, Philip	Johnstown.
King, Louis M	Schenectady.
L'Armoraux, J. S	Ballston Spa.
Lester, Charles C	Saratoga Springs.
Lester, Willard	Saratoga Springs.
Lillie, T. A	Whitehall.
McLaughlin, Chester B.	Port Henry.
Mills, William C	Gloversville.
Nellis, Andrew J.	Johnstown.
Paddock, Frederick G.	Malone.
Parke, C. M.	Gloversville.
Potter, Delcour S.	Glens Falls.
Russell, S. W.	Salem.
Sitterly, J. S.	Fonda.
Smith, David Cady	Schenectady.
Smith, Everett	Schenectady.
Smith, Francis A.	Elizabethtown.
Smith, Clarence W.	Johnstown.
Spencer, Edgar A	Gloversville.
Spratt, Thomas.	Ogdensburg.
Van Voast, James A.	Schenectady.
Verbeck, James W	Ballston Spa.
Waterman, R. E.	Ogdensburg.
Westfall, D. M.	Cambridge.
White, Edward P.	Amsterdam.
Wendell, John D.	Fort Plain.
Westbrook, Zerah S.	Amsterdam.

FIFTH DISTRICT.

Herkimer, Jefferson, Lewis, Oneida, Onondaga and Oswego
Counties.

Andrews, Charles W.	Syracuse.
Bearup, David.	Theresa.
Bell, Charles.	Herkimer.
Bentley, H. W.	Booneville.
Brown, Elon R.	Watertown.
Brown, Levi H.	Watertown.
Boyle, John W.	Utica.
Carlisle, John N.	Watertown.
Cookinham, H. J.	Utica.
Coon, S. Mortimer.	Oswego.
Devendorf, Irving R.	Herkimer.
Driscoll, Michael E.	Syracuse.
Ford, Wayland F.	La Fargeville.
Fuller, T. K.	Syracuse.
Goodelle, William P.	Syracuse.
Griffin, Daniel G.	Watertown.
Hiscock, Frank.	Syracuse.
Hogan, John W.	Syracuse.
Hunt, Ward, Jr.	Utica.
Huntington, S. C., Jr.	Pulaski.
Irish, Charles G.	Syracuse.
Johnson, Russell S.	Camden.
Jones, Lawrence T.	Syracuse.
Jones, Hadley.	Little Falls.
Kenyon, William H.	Oswego.
Kernan, Nicholas E.	Utica.
Kilby, Allen E.	Carthage.
Knapp, Martin A.	Syracuse.
Knapp, C. J.	Lowville.
Lansing, John.	Watertown.

Lee, Morris E. Cape Vincent.
 Lewis, Ceylon H. Syracuse.

McConnell, J. A. Watertown.
 McCormick, James A. Syracuse.
 McMahon, J. D. Rome.
 Morse, Horace E. Clayton.

Nottingham, Edwin. Syracuse.

Patten, Henry S. Utica.
 Pierce, D. A. Syracuse.
 Piper, G. S. Fulton.
 Prescott, M. C. Herkimer.

Richardson, Thomas. Ilion.
 Reilly, Owen M. Phoenix.

Sawyer, A. H. Watertown.
 Smith, Edward N. Watertown.
 Smith, Hannibal. Watertown.
 Steele, A. B. Herkimer.
 Stranahan, N. N. Fulton.

Tracey, Wm. G. Syracuse.

Watts, C. H. Watertown.

SIXTH DISTRICT.

Broome, Chemung, Chenango, Cortland, Delaware, Madison,
 Otsego, Schuyler, Tioga and Tompkins Counties.

Aldis, J. P. Norwich.

Belknap, E. C. Unadilla.
 Bixby, Joel B. Norwich.

Clinton, Eugene. Greene.
 Curtis, George B. Binghamton.
 Clark, H. Austin. Owego.

Danforth, Elliot Bainbridge.
 Diven, George M. Elmira.
 Downs, Francis W. Binghamton.

Eustace, Alexander C.....	Elmira.
Gladding, Albert F.....	Norwich.
Grant, John P.....	Stamford.
Hanford, E. H.....	Walton.
Harrington, H. H.....	New Berlin.
Herendeen, Edward G.....	Elmira.
Hyde, William H.....	Oxford.
Jenks, W. F.....	Norwich.
Mandeville, H. C.....	Elmira.
Mason, Joseph.....	Hamilton.
Newton, Howard D.....	Norwich.
Noble, William N.....	Ithaca.
Packer, A. B.....	Norwich.
Randall, Henry E.....	Norwich.
Ray, George W.....	Norwich.
Redfield, Henry S.....	Elmira.
Robinson, D. C.....	Elmira.
Sears, John G.....	Owego.
Sewell, A. H.....	Delhi.
Smith, John E.....	Morrisville.
Stanchfield, John B.....	Elmira.
Sullivan, W. H.....	Norwich.
Tucker, J. Lee.....	Oneonta.
Turner, Robert T.....	Elmira.
Wales, A. D.....	Binghamton.

SEVENTH DISTRICT.

Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne
and Yates counties.

Abbott, John B.....	Geneseo.
Acker, Milo M.....	Hornellsville.
Adams, Elbridge L.....	Rochester.
Aiken, E. C.....	Auburn.
Armstrong, William W.....	Rochester.
Austin, Mortimer V..	Auburn.

Baker, C. S.....	Rochester.
Bachman, George L.....	Geneva.
Barkin, Lyman J.....	Starkey.
Brown, Selden S.....	Rochester.
Burnham, E. K.....	Newark.
Coyne, Edward P.....	Geneseo.
Coyne, John H.....	Geneseo.
Cooke, Martin W.....	Rochester.
Danforth, Henry G.....	Rochester.
Davis, M. E.....	Rochester.
Davy, Cassius C.....	Rochester.
Desmond, John.....	Rochester.
Dunwell, J. W.....	Lyons.
Durfee, H. R.....	Palmyra.
Foote, Nathaniel.....	Rochester.
Goff, Frank M.....	Rochester.
Harris, A. H.....	Rochester.
Harris, Edward.....	Rochester.
Hawley, Charles A.....	Seneca Falls.
Holmes, Daniel.....	Brockport.
Hunn, Joseph S.....	Rochester.
Jones, W. Martin.....	Rochester.
Kelsey, Otto.....	Geneseo.
Kiehel, C. D.....	Rochester.
Kingley, Charles F.....	Bath.
Lyon, Reuben R.....	Bath.
Manning, Frederick L.....	Waterloo.
Metcalf, J. H.....	Canandaigua.
McIntyre, S. B.....	Palmyra.
McLouth, Charles.....	Palmyra.
McMath, Morrison H.....	Rochester.
McNair, John M.....	Dansville.
Miller, E. D.....	Newark.
Morris, William T.....	Penn Yan.
Near, Irvin W.....	Hornellsville.

Nellis, George W.	Auburn.
Noyes, Fred. W.	Dansville.
O'Grady, James, M. E.	Rochester.
Page, De Merville.	Hornellsville.
Payne, Sereno S.	Auburn.
Peck, Fletcher C.	Nunda.
Raines, Thomas.	Rochester.
Remington, H. F.	Rochester.
Rich, Adelbert P.	Auburn.
Robson, James A.	Canandaigua.
Roe, Charles.	Rochester.
Rowe, Charles H.	Dansville.
Satterly, Eugene H.	Rochester.
Saxton, Charles T.	Clyde.
Sebring, James O.	Hammondsport.
Seward, William H., Jr.	Auburn.
Stevens, James H.	Hornellsville.
Van Sickle, John.	Auburn.
Werner, William E.	Rochester.
Wright, Frank D.	Auburn.
Yeoman, George F.	Rochester.

EIGHTH DISTRICT.

Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara,
Orleans and Wyoming Counties.

Armstrong, R. S.	Cuba.
Bartlett, E. M.	Warsaw.
Becker, August.	Buffalo.
Becker, Tracy C.	Buffalo.
Behrens, Jesse H.	Buffalo.
Bissell, Wilson S.	Buffalo.
Brownell, George F.	Buffalo.
Bushnell, C. M.	Buffalo.
Cuneen, John.	Buffalo.

Ellsworth, T. E.....	Lockport.
Farman, Elbert E.....	Warsaw.
Ferguson, Frank C.....	Buffalo.
Filkin, Stanley	Medina.
Fleischman, Simon.....	Buffalo.
Fowler, James I.	Jamestown.
Gibbs, Clinton B.....	Buffalo.
Gluck, James F.....	Buffalo.
Hale, Henry W.....	Buffalo.
Haller, Fred. C	Buffalo.
Hammond, William W	Buffalo.
Hazel, John.....	Buffalo.
Hill, Henry W	Buffalo.
Hotchkiss, W. H.....	Buffalo.
Jenkins, Walter S.....	Buffalo.
Johnson, I. S.....	Warsaw.
Kingsbury, Henry C	Westfield.
Kruse, Frederick W.....	Olean.
Lincoln, C. Z	Little Valley.
Millar, David.....	Lockport.
Moot, Adelbert.....	Buffalo.
Movius, Edward H.....	Buffalo.
North, Safford E.	Batavia.
Norton, Nathaniel W.....	Buffalo.
Norton, Porter	Buffalo.
Parker, Leroy.....	Buffalo.
Peck, Myron H.....	Buffalo.
Pound, John E	Lockport.
Rider, G. M	Ellicottsville.
Rockwell, J. S.....	Buffalo.
Rogers, Sherman S.....	Buffalo.
Seymour, Henry H.....	Buffalo.
Sherman, Daniel.....	Forestville.

Signor, Isaac S Albion.
Sprague, Henry Ware..... Buffalo.

Van Dusen, A. A Mayville.
Viele Sheldon T..... Buffalo.

Wilcox, Ansley Buffalo.

APPENDIX.

Report of Sub-Committee on International Arbitration.

TO HON. WILLIAM D. VEEDER,

*Chairman Committee on International Arbitration of the
New York State Bar Association, and Associates :*

GENTLEMEN:—It was your pleasure at the first session of the committee to assign to us the duty of devising and presenting to you a plan for the creation of a Court of Arbitration to which may be submitted controverted international questions between the governments of Great Britain and the United States.

It may hereafter be worthy of remembrance, and we therefore note the fact, that the first meeting of the committee was held on the 12th day of February, the anniversary of the birth of that great American patriot and statesman, Abraham Lincoln, and the first occasion of its celebration as a public holiday in the Empire State. It seems to us that it was a most fitting occasion for the inauguration of a movement looking to the permanency of peace among nations—a day so recently set apart as a memorial in honor of the birth of one who, though the central figure and the controlling genius in the most gigantic war of modern times, was a man who loved peace better than he loved his life, and whose memory savors of the sweetest inspirations of the brotherhood of the

entire human family and of the fatherhood of an inscrutable First Cause.

We have approached this duty with many misgivings. The interests involved in the undertaking are so momentous, the problem to be solved so stupendous, and the action of the committee, if finally crystallized into a system for the eventual abolition of bloodshed among the civilized nations of the world, is freighted with such vast possibilities, that we pause on the threshold of our endeavor, oppressed with a feeling of the inadequateness of man's ability to compass such gigantic conclusion. Our duty, however, seems clear, and that is, to make the trial; and, in memory of blood-washed battle fields on every continent, and of the wrongs and of the rights of humanity everywhere, we apply ourselves to the undertaking with honest effort.

In the outset we find ourselves confronted with a problem of no mean proportions. By the resolution under which the committee is acting, we are expected to devise a plan for the creation of an Anglo-American court, and international only as between the governments of Great Britain and the United States, while no specific instructions have been formulated for our guidance. It is contended by some members of our Association — men who are recognized among the ablest legal writers and practitioners of the State — that it is quite within the practicable possibilities to create such a court, with only citizens of the two nations to constitute it, and that it is the duty of the committee to formulate such a plan and present it to the Association. As a sub-committee, we find ourselves quite unable to participate in the belief that men of our own or of any profession, in any country,

have attained to that ideal state of universal citizenship when, as members of a great International Tribunal, they can so forget kindred and country as to sit in judgment, with perfect impartiality, upon the sins of omission and of commission of their own fatherland. "My country, right or wrong!" may, in the sweet millennial time toward which we trust the world is moving, give place to the wiser and more equitable declaration, "My country right, *but never wrong!*" but the boundary lines between nations are still too closely drawn, and the blood flows yet too warmly in the veins of the children of our fathers, to contemplate with perfect tranquility the submission of controversies to interested litigants for impartial adjudication.

We, therefore, confess our inability to provide any plan by which a court composed of an equal membership of each government can be created to which such differences can be submitted with the expectation that a judgment may be rendered by it that will be respected by both litigants. It would be very like two litigants in a subordinate court selecting an equal number of jurors or arbitrators from their respective friends, all of whom should be personally interested in the outcome of the litigation, and then expect to secure a majority of such court in favor of either party.

It is manifest, that to arrive at any decision and render a judgment that litigants will respect, a majority of the court must concur in its findings. In the first place, a case will not reach a court of the character contemplated until the representatives of the respective governments have exhausted every diplomatic effort to come to an amicable adjustment of the

disputed question without further friction than grows out of the seemingly cordial correspondence carried on between the high functionaries of the foreign offices of the two nations. It is only when these agencies prove unequal to the emergency, when diplomacy is inadequate and friendly relations are strained, when — without an impartial tribunal competent to settle the controversy — the time comes when passports are about to be exchanged, that steps will be taken to make a case for submission to such a court. It is evident, then, to the most unlettered citizen of either country that under such circumstances no case can be successfully submitted to a tribunal composed of an equal number of citizens of the two countries and that neither nation will consent to the formation of a court in which it will have an unequal voice and influence. If this contention is true, then it must be conceded that it is futile to expect that any beneficial result can be secured from a court evenly balanced between two contending parties.

The great question of international arbitration is too important, in the eyes of all good men of every civilized nation, to be lightly dismissed, and we feel that every honest endeavor should be put forth to devise some plan for it, even if we must abandon any scheme that contemplates the exclusion of other than English speaking people from participation in the deliberations of such a court and final benefits to be derived from it. We cordially endorse the principle of arbitration, and we believe it practicable and possible. Holding fast to this tenet, we believe that the duty of the New York State Bar Association will not be fully performed until it has exhausted every method within its reach to bring about the creation of a tri-

bunal to which may be submitted all grievances between civilized nations with the same confidence in the justice and equity of its final decrees as is now experienced in the submission of other contentions to high courts of judicature among the nations of the world.

While grave differences in matters of judicial proceedings, social customs and modes of thought still exist between the Anglo-Saxon and the Latin races, and, to the casual observer, insurmountable difficulties appear to stand in the way of any closer relations than now exist between nations of so widely divergent antecedents, we cannot share these apprehensions, and we believe the hour has struck when these two great peoples may be brought into closer relationship. Standing almost on the threshold of a new century, in the closing hours of the old, and looking back over the years that are already compassed within it, we are forced to admit that, in the rapid strides that have been made in the sciences and in many useful discoveries and inventions during its years, improvements in the modes of legal procedure and in the methods of adjustment of menacing disputes, especially between nations, have not kept pace with other civilizing forces. While steam and electric appliances have diminished distances, and have drawn nations into closer relations socially and commercially, standing armies still confront us, and the seas are resplendent with steel-plated battle ships and brilliantly uniformed navies. We sit *tete-a-tete*, while the knife looks out of our belt and the Winchester rifle or a needle gun stands behind each one of us. Can we change these accessories? That is the question.

We hold to the opinion that these two great races

have reached a stage of development when, in the interests of humanity, a grand effort should be made to create a tribunal that, in time, shall grow into a central international court to which shall be submitted all grave international questions that threaten the peace of nations and the prosperity of the world. As we look abroad and among the nations that are now in friendly intercourse politically, commercially and religiously, we see a growing disposition on the part of the representatives of all these people to draw closer together in their general relations, and to minimize the evils that grow out of international disputes.

Reviewing the situation, therefore, it appears to us, acting as a part of the Committee created by the State Bar Association, that we shall not have done our full duty in the premises if we do not present to you a plan by which more than the governments of the United States and Great Britain shall be brought into these closer relations, and eventually submit to an impartial court, controversies that cannot be adjusted by diplomatic negotiations. Without waiting further instructions from the committee, we have, therefore, canvassed this subject from the high standpoint of the greatest good to the greatest number, and beg to submit to the committee a plan which, if adopted, we feel will lead eventually to the results desired. It must be conceded that this plan embraces more than has been referred to us, but, as the greater includes the less, and only by the adoption of a plan that brings into these closer relations other nations than those using the English language, can we hope for the attainment of the ends sought for, we venture to give the result of our deliberations. We, therefore, recommend:

First : A permanent International Tribunal, to be known as "The International Court of Arbitration."

Second : Such court shall be composed of nine members, one each from nine independent States or nations, such representative to be a member of the Supreme or Highest Court of the nation he shall represent, chosen by a majority vote of his associates, because of his high character as a publicist and judge and his recognized ability and irreproachable integrity. Each judge thus selected shall hold office during life or the will of the court selecting him.

Third : The court thus constituted shall make its own rules of procedure, shall have power to fix its place of sessions, and to change the same from time to time as circumstances and the convenience of litigants may suggest, and shall appoint such clerks and attendants as the court may require.

Fourth : Controverted questions arising between any two or more Independent Powers, whether represented in said "International Court of Arbitration" or not, may be submitted by treaty between said Powers to said court, providing only that said treaty shall contain a stipulation to the effect that all parties thereto shall respect and abide by the rules and regulations of said court, and conform to whatever determination it shall make of such controversy.

Fifth : Said court shall be open at all times for the filing of cases and counter-cases under treaty stipulations by any nation, whether represented in the court or not, and such orderly proceeding in the interim between sessions of the court in preparation for argument and submission of the controversy, as may seem necessary, may be taken as the rules of the court pro-

vide for and may be agreed upon between the litigants.

Sixth: Independent Powers not represented in said court but which have become parties litigant in a controversy before it, and by treaty stipulation have agreed to submit to its adjudication, shall comply with the rules of the court and shall contribute such stipulated amount to its expenses as may be provided for by its rules or determined by the court.

To secure early consideration of this important question and harmonious action on the part of all citizens of this and other countries who favor the organization of such a tribunal, we also recommend:

Seventh: That the President of the United States be respectfully memorialized, on behalf of the New York State Bar Association, and of such other bar and other associations in this country as may be pleased to join therein at once to enter into negotiations with the representatives of the governments of Great Britain, France, Germany, Russia, The Netherlands, Mexico, Brazil, and the Argentine Republic, for a union with the government of the United States in the laudable undertaking of forming an International Court substantially on the basis herein outlined.

Eighth: That correspondence be opened immediately with other Bar Associations in the United States, the action of the Bar Association of the State of New York communicated to them, and that such associations and other organizations, societies and individuals be invited to join in said memorial to the president, in order that action by the government of the United States be secured at as early a date as seems practicable and consonant with such an enterprise and the dignity of the undertaking.

Ninth: That correspondence be also entered into with like legal bodies in Great Britain, its colonies, and other countries believed to be interested in such a movement, having for its purpose the encouragement of every effort among civilized people to compass peace and strengthen the bonds of brotherly love among nations.

In presenting this plan, we have not overlooked the fact that there are many obstacles to be overcome before a tribunal that may be entitled to rank as an International Court can become a reality. We are not unconscious of the fact also, that many good citizens of our country, whose opinions are worthy of most careful consideration, maintain that a court of the character outlined in these recommendations is Utopian and impossible. Here is a broad field for argument, but we have endeavored to keep out of it as far as possible. We do believe some plan, be it the one we now present, one at all similar to it, or one entirely remote from it, is possible, and will eventually be a consummation among the civilized nations of the globe, and that there is nothing more Utopian or impossible in such a dream than has appeared in many other dreams looking to a higher civilization among the children of men.

To appreciate the possibilities that may attend upon the advent of a new generation and may ultimately enter into its history, one must hold close communion with the fictions of its predecessors. Evolutions are the products of the years and they wait on intellectual and moral forces equally with the material. The Utopia of one century is the Achievement of the next. Thomas More wrote fiction; Thomas Edison is leaving the imprint of fact on

things material about him, and yet how very like are the lines of thought and study these men of genius pursued in their respective generations. A great International Court for the settlement of international disputes may be the Utopia of to-day, but none the less the Attainment of to-morrow. We shall not keep step with the progressive spirit of the century if we are not prepared to move on to much higher ground than we now occupy in the adjustment of legal controversies among men and nations. The suggestions we have made are but the invitation to go up higher.

In these recommendations we have not attempted to enter into details in the formation of the proposed court, further than to provide for the number of judges to constitute it, and some essential matters that must necessarily be cared for in its organization. We have named nine Powers whose representatives we think should be called to constitute this court. These nine Powers appear to be such as would most promptly recognize the importance of such a tribunal, and that would readily second the movement looking to its organization. We do not presume to exclude other nations or to intimate by our designation of those named, that representatives from other nations may not be just as worthy and just as satisfactory in every respect to enter into the composition of this court, but, believing that in the selection of the members of such a court both Europe and America should be represented in as nearly equal parts and on as nearly equal terms as circumstances permit, we have designated the nine countries named in our seventh recommendation. We do not need to invite attention to the fact that only four of the nine nations specified by us are on the American continent, while

five are in Europe; still it seems to us that this division is only a proper one, and that there can hardly be any fair criticism of our work on account of it. These nations are among the most enlightened and powerful on the two continents and unquestionably each one of them has a high court from which may be selected a most satisfactory representative to sit as an arbiter in a great central tribunal.

The plan proposed by us for the selection of this court appears to be the most feasible and least objectionable of the several plans that have suggested themselves. The members of the highest courts of these different governments are selected for their known ability and integrity and it is presumed that they are all chosen for life, or during good behavior. They are as far removed from political influences as any body of men can well be, and it is the opinion of your sub-committee that no better plan can be devised for the formation of an impartial international tribunal than to have nine judges selected from nine such courts, who are beyond the reach of political influence and personal ambition. For the same reason, we have provided for a change in the court when, by reason of incapacity or other cause, a member of the court who has been selected is found unable properly to represent his government in the sittings of the court.

We are of the opinion that the selection of the court and the power to make changes in it from time to time should be left wholly to the Supreme Courts of the respective Powers represented in the International Court. There are many other methods which have suggested themselves, but not one of these seems so free from objection as the one we have

named in our second recommendation. Appointment by an Executive is open to the criticism of possible political influence, while the Supreme Court of a nation embodies the highest and profoundest judicial conception and is too remote from improper influences to yield to any pressure not designed to serve the highest purposes of so important an enterprise.

We ought also to explain that we believe it unnecessary, in the formation of this court, for the governments composing it to enter, in advance of its construction, into any treaty stipulations in regard to it. We think the work of organization can be done by the legislative and executive branches of the several governments, without resort to treaty negotiations. There may be no objection to a general treaty between these governments, looking to the formation of this court, but it appears to us that the time for treaty stipulations to be entered into is when two or more governments, either represented in this court or outside of it, recognize its utility and accept it as their "peace-maker," or, in a specific case, without such full acquiescence, find themselves in a position where they are unable, by ordinary diplomatic negotiations, to settle a controversy that threatens amicable relations between them. Then such a treaty may be entered into and the permanency of the court recognized, or their specific controversy submitted to the tribunal that has already been provided by wise legislation on the part of the several Powers represented in it.

The wisdom of the plan we present may be questioned on the ground that it embraces too much, and that the time has not arrived when so many Powers may be prompted to entertain a project for a great central international tribunal. We take occasion,

however, to observe that this proposition is intended to meet the present almost universal demand for a permanent court for the settlement of controversies that may arise between the governments of Great Britain and the United States, while it is at the same time sufficiently flexible to be adapted to the necessities of other nations as they may learn its utility. It appears to us that a court designed to perform such an important office between two great nations ought not to contain a less number than nine members, as, in case of a dispute, two of the members would be interested as parties litigant, thus leaving the decision in reality to be made by the remaining seven members of the court. To set the machinery of such a court in motion requires a treaty only between the two Anglo-Saxon nations—Great Britain and the United States. By the terms of this treaty the two nations interested in the creation of the court would need but to invite the other Powers named in our seventh recommendation, as an act of comity between friendly nations, to select seven members of the court in conformity with the foregoing propositions. It will be unnecessary for any other nation to join in such a treaty, as, by the act of the two English-speaking Powers, and by virtue of the treaty stipulations between them, a permanent "International Court of Arbitration" would become an established fact. It is believed that, if such a court be once recognized and accepted by two such Powers, its utility will force recognition and adoption by other nations seeking honorable adjustment of vexatious international questions.

We also submit to you a form of memorial to be addressed to the President of the United States, in

which are outlined the recommendations herein presented, and we recommend that this memorial be presented to the President without delay and that other associations and organizations be invited to join therein as contemplated in the foregoing recommendations.

All of which is respectfully submitted by your subcommittee, at the State Capitol in the city of Albany, N. Y., April 16, 1896.

W. MARTIN JONES,
WALTER S. LOGAN.

Report of Committee on International Arbitration.

To the New York State Bar Association :

The foregoing report of the Sub-Committee of the Committee on International Arbitration, appointed by the State Bar Association was duly submitted to the full Committee in session at the State Capitol in the city of Albany on the 16th day of April, 1896; and, on motion duly made, said report was endorsed and adopted as the report of the full committee to the State Bar Association. It is therefore herewith respectfully submitted as the report of your Committee.

State Capitol, ALBANY, N. Y., *April* 16, 1896.

WILLIAM D. VEEDER, Chairman, Brooklyn.

WALTER S. LOGAN, New York.

W. MARTIN JONES, Rochester.

SHERMAN S. ROGERS, Buffalo.

JOHN I. GILBERT, Malone.

CHARLES A. DESHON, New York.

WILLIAM H. ROBERTSON, Katonah.

EDWARD G. WHITAKER, New York.

CHARLES M. DAVISON, Secretary, Saratoga.

Committee.

CHAUNCEY M. DEPEW, New York.

JOHN B. MOORE, Columbia College.

Advisory Members.

Petition to the President of the United States.

To the President :

The petition of the New York State Bar Association respectfully shows:

That, impelled by a sense of duty to the state and nation and a purpose to serve the cause of humanity everywhere, your Petitioner, at its annual session held in the city of Albany on the 22d day of January, 1896, appointed a committee to consider the subject of International Arbitration and to devise and submit to it a plan for the organization of a tribunal to which may hereafter be submitted controverted international questions between the governments of Great Britain and the United States.

That said committee entered upon the performance of its duty at once, and after long and careful deliberation, reached the conclusion that it is impracticable, if not impossible, to form a satisfactory Anglo-American Tribunal, for the adjustment of grave international controverises, that shall be composed only of representatives of the two governments of Great Britain and the United States.

That, in order that the subject might receive more mature and careful consideration, the matter was referred to a sub-committee, by whom an extended report was made to the full committee. This report was adopted as the report of the full committee, and, at a Special Meeting of the State Bar Association called

to consider the matter, and held at the State Capitol in the city of Albany on the 16th day of April, 1896, the action of the committee was affirmed and the plan submitted fully endorsed. As the report referred to contains the argument in brief, both in support of the contention that it is impracticable to organize a court composed only of representatives of the governments of Great Britain and the United States, and in support of the plan outlined in it, a copy of the report is given above and your Petitioner asks that it be made and considered a part of this Petition.

That your Petitioner cordially endorses the principle of arbitration for the settlement of all controversies between civilized nations, and it believes that it is quite within the possibility of the educated intellects of the leading Powers of the world to agree upon a plan for a great central World's Court that, by the common consent of nations, shall eventually have jurisdiction of all disputes arising between Independent Powers that cannot be adjusted by friendly diplomatic negotiations. Holding tenaciously to this opinion and, conscious that there must be a first step in every good work, else there will never be a second, your Petitioner respectfully but earnestly urges your early consideration of the subject that ultimately — at least during the early years of the coming century — the honest purpose of good men of every nation may be realized in devising means for the peaceful solution of menacing disputes between civilized nations. Your Petitioner therefore submits to you the following recommendations:

First: The establishment of a permanent International Tribunal, to be known as "The International Court of Arbitration."

Second: Such court to be composed of nine members, one each from nine independent States or nations, such representative to be a member of the Supreme or Highest Court of the nation he shall represent, chosen by a majority vote of his associates, because of his high character as a publicist and judge, and his recognized ability and irreproachable integrity. Each judge thus selected to hold office during life or the will of the court selecting him.

Third: The court thus constituted to make its own rules of procedure, to have power to fix its place of sessions and to change the same from time to time as circumstances and the convenience of litigants may suggest and to appoint such clerks and attendants as the court may require.

Fourth: Controverted questions arising between any two or more Independent Powers, whether represented in said "International Court of Arbitration" or not, at the option of said Powers, to be submitted by treaty between said Powers to said court, providing only that said treaty shall contain a stipulation to the effect that all parties thereto shall respect and abide by the rules and regulations of said court, and conform to whatever determination it shall make of said controversy.

Fifth: Said court to be open at all times for the filing of cases and counter cases under treaty stipulations by any nation, whether represented in the court or not, and such orderly proceedings in the interim between sessions of the court, in preparation for argument, and submission of the controversy, as may seem necessary, to be taken as the rules of the court provide for and may be agreed upon between the litigants.

Sixth: Independent Powers not represented in said court, but which may have become parties litigant in a controversy before it, and, by treaty stipulation, have agreed to submit to its adjudication, to comply with the rules of the court and to contribute such stipulated amount to its expenses as may be provided for by its rules, or determined by the court.

Your Petitioner also recommends that you enter at once into correspondence and negotiation, through the proper diplomatic channels, with representatives of the governments of Great Britain, France, Germany, Russia, The Netherlands, Mexico, Brazil, and the Argentine Republic, for a union with the government of the United States in the laudable undertaking of forming an International Court substantially on the basis herein outlined.

Your Petitioner presumes it is unnecessary to enter into further argument in support of the foregoing propositions than is contained in the report of its committee, which is given above, and which your Petitioner has already asked to have considered as a part of this Petition. Your Petitioner will be pardoned, however, if it invite special attention to that part of the report emphasizing the fact that the plan herein outlined is intended, if adopted, at once to meet the universal demand among English-speaking people for a permanent tribunal to settle contested international questions that may hereafter arise between the governments of Great Britain and the United States.

While it is contended that it is wholly impracticable to form such a tribunal without the friendly interposition of other nations on the joint invitation of the Powers who unite in its organization, it is very evi-

dent that a most acceptable permanent International Court may be speedily secured by the united and harmonious action of said Powers as already suggested. Should obstacles be interposed to the acceptance, by any of the Powers named by your Petitioner, of the invitation to name a representative for such a court on the plan herein generally outlined, some other equally satisfactory Power could be solicited to unite in the creation of such a court.

Believing that, in the fulfillment of its destiny among the civilized nations of the world, it has devolved upon the younger of the two Anglo-Saxon Powers, now happily in the enjoyment of nothing but future peaceful prospects, to take the first step looking to the permanency of peace among nations, your Petitioner, representing the Bar of the Empire State, earnestly appeals to you as the Chief Executive officer of the government of the United States, to take such timely action as shall lead eventually to the organization of such a tribunal as has been outlined in the foregoing recommendations. While ominous sounds of martial preparations are in the air, the shipbuilder's hammer is industriously welding the bolt, and arsenals are testing armor plates, your Petitioner, apprehensive for the future, feels that delays are dangerous, and it urgently recommends that action be taken at once by you to compass the realization of the dream of good men in every period of the world's history, when nations shall learn war no more and

enlightened Reason shall fight the only battles fought
among the children of men.

AND YOUR PETITIONER WILL EVER PRAY.

Attested in behalf of the New York Bar Association
at the Capitol in the City of Albany,
N. Y., April 16th, 1896.

[SEAL OF ASSOCIATION.]

ED. G. WHITAKER,

President.

L. B. PROCTOR,

Secretary.

MEMORIAL

TO THE

BOARD OF TRUSTEES OF PUBLIC BUILDINGS, IN REGARD TO THE OCCUPANCY OF ROOMS IN THE CAPITOL BY THE NEW YORK STATE BAR ASSOCIATION.

On November 5, 1895, notice was given L. B. Proctor, Secretary of the New York State Bar Association, by the Superintendent of Public Buildings, to show to the board of trustees of Public Buildings by what right or authority the Association occupies, and has occupied for a long space of time, a department or room in the Capitol. Accordingly, on November 20, the following memorial, setting forth the right of the Association to a room or rooms in the Capitol, prepared by the president and secretary of the Association, was presented to His Excellency, Governor Levi P. Morton, Lieutenant-Governor Charles T. Saxton, and the Speaker of Assembly, the Hon. Hamilton Fish.

"To the Honorables, the Board of Trustees of Public Buildings:

GENTLEMEN:—The undersigned, the president and secretary of the New York State Bar Association, beg leave to submit to your honorable board, in behalf of the said Association, the following memorial for your review and consideration, showing, as we believe, and as the officers and members of the Association believe, the undoubted right of the said organization to

occupy rooms, or a department, in the Capitol building, at Albany, as it has done for many years.

The New York State Bar Association was organized under an act of the Legislature, passed May 3, 1876, which requires the Association to furnish a copy of its charter, constitution, by-laws and a volume of its annual reports to the State Library, at Albany, and to each of the libraries provided for the use of the justices of the Supreme Court and to each member of the Legislature annually. The act also makes it the duty of every local Bar Association in the State to deposit with the State Bar Association a copy of its act or certificate of corporation, or its articles of association, its constitution, by-laws and annual report.

The Association went into operation under the hearty approval of the judiciary and a large representation of the bar of the State, State officers and the members of the Legislature. It began its work of carrying into operation the objects for which it was organized, as outlined in its constitution, under the most auspicious circumstances, with a large and distinguished charter membership.

The objects of the Association were deemed so commendable, useful and important, the duties and responsibilities placed upon it by the Legislature so great, it was brought into such close relationship with the State Library, the use of which was accorded its members, that the Legislature and the bar at once perceived that to facilitate its business a room or rooms in the Capitol ought to be assigned to it. Whereupon, the commissioners of that edifice, taking the same view of the matter, adopted the following preambles and resolution:

“At a meeting of the commissioners of the new

Capitol, held at the office of the auditor on the 9th day of November, 1879,

Present—Lieutenant-Governor Dorshimer, Auditor Schuyler, Attorney-General Schoonmaker.

The attorney-general offered the following preambles and resolution,

WHEREAS, The New York State Bar Association is required by its charter to furnish copies of its annual report to the State Library, at Albany, and to each of the libraries provided in each of the counties in the State for the use of the justices of the Supreme Court, and to each member of the Legislature annually,

WHEREAS, It is a voluntary and public association for the benefit of the people of the State and the bench and bar thereof,

Therefore, be it resolved. That the architects of the capitol be, and are, directed to designate and prepare for the use of the New York State Bar Association a convenient room in connection with those for the accommodation of the State Library, and connecting with the law department thereof, for the accommodation of the members of the Association, and such rooms shall be set apart for the sole use of the said Association.

JAMES MCINTYRE,
Clerk to the Capitol Commission."

Under these preambles and resolutions the architects of the Capitol immediately prepared the room so ordered to be provided, and the Association went into possession of it. After occupying it three years changes were made in the rooms of the law department of the State Library, which rendered it necessary to assign other headquarters to the State Bar Association, and it was placed into possession of the room which it now occupies.

For nineteen years and over the Association has sedulously and successfully fulfilled the demands of the Legislature of the State upon it, as expressed in the act of its incorporation. It has, by the most care-

ful circumspection in the election of its members, continued to increase in numbers, influence and usefulness, until it has taken its place at the head of all legal organizations of the kind in the nation, standing next in importance, if not equal to the American Bar Association, so that, as was said by an eminent jurist, in an address lately delivered in the city of New York, "It is an honor and an advantage to any lawyer, no matter how high his standing in the profession, to be a member of the New York State Bar Association."

The work of the Association has been manifested in promoting laws tending to the revision of the statutes, a careful and thorough examination of proposed laws, and preventing crude, ill-advised laws. The work of the Association has also been manifested in various legal reforms, facilitating the administration of justice and elevating the standard of integrity, honor and courtesy in the legal profession.

The Association has a large, united, energetic and influential membership, composed of the best elements and representatives of the bar of the State, in every county and in very many of the towns thereof, acting in concert in promoting the interests of the Association and the people, in effectually carrying out all the requirements of the law which called it into existence.

During sessions of the Legislature every bill introduced into the Senate and Assembly can readily be found in the room of the Association, with a record of the progress of the bill in process of enactment, for examination by the people. Every branch of information touching the judicial, legal, legislative, political and statistical history of the State can be found in the room of the Association.

From its membership a president of the United States, a governor of the State, two lieutenant-governors, two United States Senators, twenty-five members of Congress, two chief justices of the Court of Appeals, five associate justices thereof, twelve judges of the Supreme Court of the State, three attorneys-general, a secretary of the navy and a postmaster-general have been taken. The Association has always been honorably, ably and usefully represented in both branches of the Legislature. The present lieutenant-governor and the speaker of the assembly, distinguished alike for their learning and ability as lawyers, and their parliamentary accomplishments, are members of the Association. The lieutenant-governor is one of its vice-presidents.

The annual reports of the proceedings of the Association, as was recently said by one of the most distinguished judicial officers of the times, are exceedingly valuable additions to the libraries of judges, lawyers, legislators and other business men. Earnest demands for them annually come from colleges, universities, institutions of legal and classical learning in every part of the Union, and these demands have been promptly complied with. Members of both branches of the Legislature have been furnished the required number of the reports.

It will thus readily be seen that the expenses of conducting the proceedings and work of the Association are very large, which have always been paid from the treasury of the Association. It is perfectly reasonable to say, that in view of the requirements which the act incorporating the Association devolved upon it, pecuniary aid from the Legislature might properly and successfully have been solicited, espe-

cially when it is a well known certainty that there are very many departments in the Capitol, sustained by appropriations from the State treasury, of far less importance and usefulness to the people, the judiciary and the Legislature than is the State Bar Association. But the only aid it has ever asked or received from the State is the assignment to it of a room in the Capitol. That room is elegantly and conveniently furnished, embellished with works of historic art, in a manner which, it is no assumption to say, renders it a credit, not only to the Capitol, but the legal profession and the members of the Association, all of which has been done, as we have said, at the expense of the organization.

We have the honor to be

Yours very respectfully,

WILLIAM H. ROBERTSON,

President.

[SEAL OF
THE ASSO-
CIATION.]

L. B. PROCTOR.

Secretary.

Done at the Capitol, Albany, N. Y., this twentieth day of November, eighteen hundred ninety-five.

On the 29th day of November, 1895, the following reply to the foregoing memorial was received from the trustees of public buildings by the secretary of the Association.

STATE OF NEW YORK:

EXECUTIVE CHAMBER,

ALBANY, *November 29, 1895.* }

“ L. B. PROCTOR, Esq.,

Secretary, State Bar Association, Capitol Building :

DEAR SIR:—I am directed by the Board of Trustees of Public Buildings to inform the State Bar Association, through you as its secretary, that the trustees

have placed the room which is now occupied by your Association in the State Capitol at the disposal and occupancy of the State Prison Commission. Another apartment on the same floor will be prepared for the State Bar Association by the Superintendent of Public Buildings. It is expected that the transfer of quarters will be made as soon as this apartment last referred to can be prepared for use. The Superintendent of Public Buildings will give you the necessary information in detail.

Very respectfully,
(Signed) ASHLEY W. COLE,
Clerk."

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